UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	Case No. 1:15-CR-00010
	)	(RJA)(HBS)
Plaintiff,	)	
	)	
vs.	)	January 23rd, 2018
	)	
CHARLES WEBER,	)	
	)	
Defendant.	)	

TRANSCRIPT OF COMPETENCY HEARING
BEFORE THE HONORABLE RICHARD J. ARCARA
SENIOR UNITED STATES DISTRICT JUDGE

APPEARANCES:

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EXHIBITS

THE CLERK: All rise. The United States District Court is now in session. Criminal action 2015-10A. United States v. Charles Weber. Criminal competency continuation. Counsel, please state your name and the party you represent for the record.

MS. KRESSE: Good morning, Your Honor. MaryEllen Kresse and Patricia Astorga for the United States.

THE COURT: Good morning.

MR. COMERFORD: Good morning, Your Honor. Brian Comerford for Charles Weber. He's present this morning.

THE COURT: All right. Good morning.

MR. COMERFORD: We're prepared to continue with the hearing, Judge.

THE COURT: Okay. Let's go.

MR. COMERFORD: And we call Dr. Ana Natasha Cervantes.

(The witness was sworn at 10:00 a.m.)

THE CLERK: If you could please state your name and spell your first and last name for the record and make sure you speak into the microphone.

THE WITNESS: It's Ana Natasha Cervantes, C-E-R-V-A-N-T-E-S.

DIRECT EXAMINATION

BY MR. COMERFORD:

Q. Good morning, Dr. Cervantes.

A. Good morning.

Q. What is your profession?

A. Forensic psychiatry.

Q. Where are you presently employed?

A. I am presently self-employed with my own forensic practice. I also work for Crime Care part-time in a correctional setting at the Niagara County Correctional Facility.

Q. And what is your role in that job with Crime Care?

A. I am a treating psychiatrist at the jail and I am also employed by University Psychiatric Practice, the University of Buffalo as the fellowship director for the forensic psychiatry program.

Q. And what is your role as the fellowship director for the forensic psychiatry program?

A. Well, as the training director, I am in charge of arranging all the didactic and generally the teaching areas for the forensic fellow.

Q. And in terms of your private practice, what is your role in that?

A. I do a variety of forensic evaluations for different

clients, be it attorneys, different agencies, companies, insurance companies as well. So, I do a variety of criminal and civil work.

Q. And did you do -- in criminal work, it's primarily cases where either -- I guess can you tell us who typically hires you to do criminal work?

A. I have done work for various agencies. The majority of my work locally is either private attorneys or assigned counsel, but I have done some work in Monroe County for the Monroe County Public Defender's Office, a couple of cases that involved the U.S. Attorney's Office here locally as well and for the Federal Public Defender's Office.

Q. And have you been retained by the U.S. Attorney's Office in the past to work on cases?

A. Yes. Some of those have been joint cases that have been agreed upon by both parties and court ordered.

Q. In terms of your educational background, could you give us just a briefly summary of that?

A. Sure. I completed by bachelor's in psychology from Loyola University in 1997. I then went on to medical school at Case Western Reserve University from 1997 to 2001. From 2001 to 2002, I completed an internship in internal medicine at Metro Health Medical School, also thorough University Hospital in Cleveland. And then, I completed a general psychiatry residency at John Hopkins Hospital in Baltimore,

Maryland. After that, I completed a forensic fellowship at the University of Maryland, also in Baltimore, Maryland.
Q. Now, you are a psychiatrist as opposed to a psychologist?
A. Correct.
Q. Can you explain a little bit the difference between, I guess, the training involved in becoming a psychiatrist versus becoming a psychologist?
A. Sure. So, the main difference is that psychiatrists must go to medical school first, so all psychiatrists complete a medical degree, which is four years after graduation from an undergraduate program. Then, in order to be a psychiatrist and call yourself that, you must complete an approved training program in psychiatry, which is four years duration.
Q. Okay. And what -- as a forensic psychiatrist, what's different about what you do versus what a forensic psychologist would do, if there is a difference?
A. Well, there is a difference. Because psychiatrists are physicians, a lot of what we do is treatment that involves medication management. In most states, psychologists cannot do that. So, a lot of our experience is that most people don't start out doing only forensic psychiatry, it comes from treating patients. So, as doctors, that's a big part of our background that we don't share in common with psychologists. So, we tend to think about more -- when there's abnormalities, we try to rule out medical issues first before

calling something psychiatric.
Q. Thank you.
MR. COMERFORD: Judge, I am handing up to the witness a copy of Defendant's Exhibit 1.
THE COURT: Okay.
BY MR. COMERFORD:
Q. Dr. Cervantes, do you recognize that document?
A. Yes.
Q. Can you tell us what it is?
A. This is a copy of my CV.
Q. And did you provide that to me in our preparation for this case?
A. Yes, I did.
Q. And is a -- I guess it's accurate and up-to-date, to the best of your knowledge?
A. Yes, it is.
Q. And does it detail your professional and educational background?
A. Yes, it does.
MR. COMERFORD: Judge, we would move into evidence Defendant's Exhibit 1.
MS. KRESSE: No objection.
THE COURT: All right. It will be received.
(Defendant's Exhibit 1 was received in evidence.)

MR. COMERFORD: Thank you, Judge. And I'll pull it up on the screen here. Try to.

BY MR. COMERFORD:

Q. Okay. Dr. Cervantes, could you talk a little bit about -- I'll zoom in down here -- just this section on board certification? What's involved in that?

A. Well, in order to become board certified, you must complete an approved training program in a medical speciality. So, I am board certified in general psychiatry and forensic psychiatry. In order to do that now, you must complete that training and then sign up for an examination. If you pass that case examination, you are considered board certified.

And in order to maintain your certification, there has to be a certain number of continuing medical education credits throughout. And in my case, based on the year that I become board certified, there's a recertification examination every ten years.

Q. And your -- I'm sorry if you didn't mention this -- your certification is in the specialty of forensic psychiatry?

A. Both general and forensic psychiatry.

Q. I am going to -- have you testified before in state court?

A. Yes.

Q. And in federal court?

A. Yes.
Q. And specifically on the issue of competency?
A. Yes.
Q. And have you been found to be an expert in forensic psychiatry in those cases?
A. Yes.
Q. I want to look -- I know we talked a little bit about your employment practice or -- your employment history. Can you tell us a little bit about the work you have done both at Erie County Medical Center and at the Erie County -- the CPEP and any -- basically any of your work with Erie County? If you could talk about that.
A. Sure. When I first came to Buffalo, my first employment was full-time with the correctional facility. So, I worked as both a treating psychiatrist and an evaluating psychiatrist for Erie County. So, I would treat patients and do their 730s, which are competency to stand trial evaluations, for state and local courts. I did that for five years in additional to growing my private forensic practice.

Then, after leaving Erie County, I went to Erie County Medical Center, ran the partial hospitalization program and the extended observation unit for approximately a year and a half.
Q. Can you put an estimate as to the number of individuals you have performed a competency evaluation for?

A. Everywhere, total?
Q. Everywhere, total.
A. I would estimate that I have probably done between 5 and 600 evaluations, at least.
Q. And how many of those were -- would you say were in your role with Erie County?
A. Probably about 150 to 200.
Q. Do you have experience before dealing with what, I guess, we call sovereign citizen cases?
A. I have.
Q. And have you evaluated sovereign citizens or people that might be classified as sovereign citizens previously?
A. Yes.
Q. And I don't want to jump ahead, but, you know, we'll get into what your opinion is as to Dr. Weber, but can you tell us what your expert opinion has been in those other sovereign citizen cases as to the defendant's ability to stand trial or competency to stand trial?
A. So, the two -- there's two cases; one which I was not -- I did not testify in. I was sort of a consultant, but not -- was not actually put on the stand. I did not believe that person was competent and I recently completed another evaluation, which was court-ordered in federal court for another attorney from your office and the U.S. Attorney's; so, kind of joint request and I found that person competent

to proceed.
Q. And have you done any professional activities involving this issue of sovereign citizens?
A. Yes. I put together a presentation for the American Academy of Psychiatry and the Law annual meeting, which occurred in October of 2017.
Q. And can you talk about what that group is, the -- I'm sorry. What -- the group that you --
A. The American Academy of Psychiatry and the Law?
Q. Yes.
A. That is the professional organization for forensic psychiatrists. It is the main one. And they have an annual meeting. And as part of the submissions, I recommended a panel to discuss the issue of sovereign citizens.
Q. And can you talk about who else was on that panel?
A. Yes. George Parker, who is a psychiatrist who published on this matter in the past and Mohad Singh, another resident from Yale who recently finished his fellowship and two other -- and one -- no --
Q. I guess --
A. One other forensic psychiatrist.
Q. As to Dr. Parker, is that the same Dr. Parker that authored Government Exhibit -- I don't know if it is 4 or 5. I believe it's 4.
THE COURT: Four.

BY MR. COMERFORD:
Q. Four. Government Exhibit 4. I'll hand up a copy to you. I'm sorry. Well, here, we can do this.
A. Yes.
Q. Same guy?
A. That's him.
Q. Okay. And you and he and some other professionals spoke on a panel at this meeting?
A. Yes.
Q. And did you provide me with an audio copy of that presentation?
A. Yes, I did.
Q. I just want to hand it up. And did you listen to the audio presentation?
A. I did.
Q. And was it a true and accurate copy of what took place at that -- during the presentation?
A. Yes.
MR. COMERFORD: Judge, we'd offer Defendant's Exhibit 4 into evidence.
MS. KRESSE: One second, Judge. No objection, Judge.
MR. COMERFORD: Thank you.
THE COURT: All right.
(Defendant's Exhibit 4 was received in evidence.)

BY MR. COMERFORD:

Q. Now, specific to Dr. Weber, did you conduct an evaluation of Dr. Weber?

A. I did.

Q. And --

THE COURT: Are you going to show this or are you going to play this or what? I mean, it's an exhibit. What am I supposed to do with it?

MR. COMERFORD: I'd like to refer to portions of it in a post-hearing brief, Judge. It's about two hours long. I don't want to play the whole thing. There's about 20 minutes wherein Dr. Cervantes talks about Dr. Weber's case. I think it might be helpful, but I don't want to take up two hours talking about it.

I provided it to the government. I believe we both listened to it. I can play the 20 minutes or so that Dr. Cervantes provides, talking about this specific case, doing so anonymously. I don't know if that's helpful to the Court in terms of the hearing. If the Court would like me to, I certainly will.

THE COURT: Well, I don't know whether it would be helpful or not because I don't really know what's in there.

MR. COMERFORD: It's similar to the testimony that Dr. Cervantes will be providing now. It's more a discussion generally of --

THE COURT: Why don't we -- well, let's not play it now, but let's reserve decision on that as to whether you want to play it or not.

MR. COMERFORD: Thank you, Judge.

THE COURT: Because right now, I can't intelligently make a decision.

MR. COMERFORD: Thank you, Judge. Judge, I was thinking about it in terms of -- along the lines of some of the articles that -- because there's so much limited material on this in terms of the psychiatric community, professional work on sovereign citizens, that it's pretty limited. There's two, maybe three articles and then, this audio tape. So, I just wanted the Court to have a complete record of what's out there.

THE COURT: Okay.

BY MR. COMERFORD:

Q. Now, Doctor, in terms of your evaluation of Dr. Weber, how did that come about?

A. Your office contacted me and you spoke with me personally about the questions.

Q. Now, did you prepare two reports in that case?

A. I did.

Q. And I'll pull up a copy of the Government Exhibit 2 already in evidence. Is this the first report that you prepared?

A. Yes, it is.
Q. And this one, you had the assistance of Dr. Heffler as well?
A. Correct. She was a forensic psychiatry fellow at the time.
Q. And in this report, did my office -- I guess what were we asking you to evaluate Dr. Weber for?
A. Well, the main question was whether this was merely someone who was subscribing to sovereign citizen beliefs or if there was something more, whether there was a psychiatric diagnosis or whether there was something that was different about this case.
Q. And after reviewing this report, did we, at some point, ask you to specifically address Dr. Weber's competency to stand trial?
A. Yes. And that came about because the relationship between you and Dr. Weber was fluctuating. At times, there was cooperation; at times, there's wasn't. So, then there was a secondary question as to competency to stand trial.
Q. Is that Government Exhibit 3 here, is that the second report?
A. Correct.
Q. And do you have a copy of those reports with you?
A. I do.
Q. Okay. Can you tell me -- in preparing both of those

reports, about how much time did you spend with Dr. Weber, both speaking with him and administering tests, if you can kind of put an estimate on it?

A. Well, for the first two interviews, which were August 18th and August 25th, it was a total of approximately five and a half hours. And then, when I saw him for the third visit on August 22nd, 2017, I saw him for another two hours and 30 minutes.

Q. And can you talk about any testing that you did or sent away results of to review as part of your evaluation?

A. Sure. When we first evaluated him in 2016, we administered an MMPI-2, which is a personality test, Minnesota Multiphasic Personality Inventory-2. And we sent this off for electronic scoring and interpretation and incorporated that into the first report as well.

Q. And did you also ask for an MRI to be done?

A. I did. So, we requested Dent Neurological Institute to do a brain MRI.

Q. And did you review the results or the reading of that MRI?

A. I did.

Q. And did that indicate anything unusual about Dr. Weber?

A. Well, it wasn't completely normal. There were a couple of abnormalities that were noted, the clinical significance of which is unclear. For example, they noted that his

temporal lobes were asymmetrical and his hippocampus was slightly abnormal, but the main thing was there was no evidence of something like a tumor, evidence of vascular ischemic changes that would indicate that he had vascular pathology diseases applicable or that there was some kind of obvious brain deterioration.

And specifically, we were looking for any evidence of mercury poisoning of which there are certain MRI findings that are pathognomonic or specific to that if it's present and those were not present.

Q. And did you do any research into the sovereign citizen cases, the sovereign citizen movement, those sorts of things?

A. Yes. And I'd like to mention there's not a lot out there, but yes, I did do some research and because I have -- my colleagues that I did the presentation with were interested. I did discuss the case anonymously with them and this led to us putting together an educational presentation for the APAL meeting.

Q. And I guess prior to providing you with the reports, did you review some of the literature out there, specifically Government Exhibits 4 and 5, which are the Parker article and then the other article by Pytyck and Chaimowitz?

A. Yes.

Q. Did you do any other research online or anything like that that you can tell us about into sovereign citizens?

A. Well, there's various websites online that talk about sovereign citizens. So, givemeliberty.org is a website that is often referred to, that sovereign citizens often refer to. There's a number of YouTube videos that show sovereign citizens in court and are certainly very conducive to being educational in that sense. And again, consulting with colleagues who have had expertise in evaluating.

Q. And did you -- you reviewed those materials --

A. I did.

Q. -- the things that were available online?

A. Well, I did. And in fact, I was the one that provided those articles to our forensic psychiatry core group for discussion. The fellow Dr. Heffler prepared, again anonymous, a presentation regarding this case for our department to discuss and as part of these case presentations, we usually provide background literature for people to become familiar with, so those articles were provided by us.

Q. And by "those articles", you mean Government Exhibits 4 and 5?

A. Correct.

Q. Now, ultimately, did you reach a diagnosis of Dr. Weber?

A. Yes.

Q. And what -- can you tell us what that diagnosis is in your report?

A. Right. In my second report, I diagnosed Dr. Weber with cognitive disorder; unspecified cognitive disorder. In my first report, I diagnosed delusional disorder, mixed type and I want to explain that -- why these are two different diagnoses in two different reports. Not all cases are straightforward. Individuals with mental illness are complex and sometimes, they don't fit into neat categories.

When we first evaluated Dr. Weber in 2016, the picture to us seemed to be a mixed picture of different types of delusions; so, not only beliefs about the government and his lineage and about tax-related issues, but also very prominent somatic -- meaning physical complaints -- beliefs and beliefs about treatments that were not reality-based, that were very unusual and specifically unusual for him to believe.

After -- as the case went on, because this case went on for quite a while and after discussion with you and as more information emerged as to how he was trying to manage his case, I concluded that there was also some cognitive dysfunction, which is difficult to put into a very specific category at this point. So, the specific ideology is unclear, but I believe it is present.

Q. And what -- in interviewing Dr. Weber, did he tell you about how he got involved in this whole idea about taxes and sovereign citizen? Can you talk about that?

A. Yes. He remembered very clearly where it started. It was around 2006. He was driving either to or from a golf tournament and he recalled listening to a radio show where this was being discussed and he recalls thinking that this sounded very bizarre, very off, but he still made a note and a few weeks later, went to do some research on it himself.

And he become very engrossed in this, spending anywhere from 25 to 40 hours a week doing research on this. So, he become very interested in researching his lineage and became convinced that the beliefs the sovereign citizens had were, in fact, what is true and what should be true for him. So, he began adopting this over the next several years.

Q. And do you recall where he was working at the time?

A. Dr. Weber was employed in his own private dental practice at the time.

Q. And was he married?

A. He was.

Q. Did he have employees?

A. He did. He had at least three employees.

Q. And if you know from what he's told you or from other information about the case, was there any indication that he was in, you know, some sort of financial trouble or anything like that at the time?

A. There was no indication that there was any financial trouble or crisis at the time.

Q. Now, what -- from what you have learned about this case, what happened when he started putting these sovereign citizen ideas into practice?

A. Well, from his own report, he acknowledged that he alienated a lot of his family and friends; that they didn't want to have anything to do with those concepts, that they would tell him to cool off or back off from that, which he did not. He admits that his pursuing this was ultimately the reason for his divorce.

He attempted to change the payment structure for his employees in his dental practice. So, he decided that he was not going to withhold the taxes. They were going to be responsible for that. He was going to give them a straight-up hourly rate.

This, apparently, was met with a lot of surprise and one employee quit pretty promptly. Another waited, but eventually quit. And ultimately, he wound up having to run the practice himself because none of his employees agreed to this structure. And there may have been other reasons, but that was certainly a big part of it.

He also did not continue renewing his dental -- continuing dental education and did not renew his dental license. So, when I evaluated him initially in October of 2016, he was practicing -- essentially practicing without a license. I'm sorry. August of 2016.

Q. You mentioned that in your report about -- I think you just mentioned it now, that he continued doing these things even though other people were telling him they wanted nothing to do with it. Why is that significant?

MS. KRESSE: Objection. Can we just have a clarification on what report we were referring to?

MR. COMERFORD: Sure. I'll get to the specific part. I believe it is in the second report, so Government Exhibit 3.

MS. KRESSE: Thank you.

BY MR. COMERFORD:

Q. And in this -- I guess I am referring to pages 7 and 8 where you talk about executive function and specifically shift.

A. Correct.

Q. So, I am referring to this, but what's the significance of his -- that when he's doing these things and other people are reacting poorly and things are falling apart around him and his business is falling apart, that he continues going forward? What's the significance of that in your opinion?

A. Right. Well, it shows an inability for him to really be able to adapt and flexibly respond to a situation as the needs arise for him to do that. So, despite things going badly, he is unable to take a step back, think about how to handle things and do things differently. So, he's very fixed on his way and his way being the only way and not take other

viewpoints into account. So, not being able to kind of depart and take another strategy is what that refers to.

Q. And is that -- does that support your conclusion that there's some sort of disorder here?

A. It's certainly a big part of it, yes.

Q. Okay. And what -- I guess apart from his beliefs on taxation and sovereignty, do you see any other behavior that's indicative of some underlying disorder?

A. Yes, I do. And in fact, it is something that Dr. Weber wanted to talk about first, before we even got into the sovereign citizen beliefs and that was a belief over the last few years that there are some physical problems that he has. And the way he's approached dealing with these problems is very unusual, certainly for somebody who is trained scientifically. He's gone to dental school, which has a lot of overlap with basic sciences, you know, like medical school does.

Dr. Weber described a pattern of several years, starting around 2010, of believing that there was some physical ailments that he had. He told me that he went to see his primary doctor on one occasion and had some basic blood work done. I didn't have any records to see what kind of workup he actually had and he did not give me the name of this provider. But even before the lab results were back, he acknowledged that he sought consultation from a chiropractor

or naturopath, or perhaps the person was doing both. Again, we don't know this provider or their qualifications.

And he was prescribed some alternative medicine treatment such as bentonite clay and more recently, chlorella, which is an algae. And he subjected himself to some very unusual diagnostic testing. I don't know that I would even call it diagnostic testing, because that almost gives it too much credibility, but some interesting procedures that he claimed diagnosed things such as mercury poisoning, which we have no medical documentation to actually backup.

Q. Is that the medical -- the reflex testing you are talking about?

A. Yes. So, Dr. Weber described a procedure which is referred to as muscle reflex testing where a chiropractor or a naturopath has the person hold a glass vial that has a diluent with some kind of chemical in it. And apparently, they do different chemicals in these little glass vials. The person holds the vial in their hand and then, a downward pressure of approximately two pounds is applied. And when the person's arm gives to that pressure, that means that that's diagnosing a toxicity of whatever element is in that glass vial.

Q. And what did -- I guess what was Dr. Weber told about the results of that reflex testing?

A. So, Dr. Weber was diagnosed, based on this type of testing, with mercury poisoning.
Q. And how did he follow up with that diagnosis?
A. He was prescribed a supplement called bentonite clay, which, as he explained it, is something that absorbs heavy metals in the system and are then excreted. So, he took this for what sounded like several years.
Q. In your report, so Exhibit 3, page 4 -- I'll try to zoom in on the part here -- did he have some complaints about his pancreas?
A. Right. So, when I saw him for the third interview, he had been referred for an MRI, which we already discussed. And he claimed that after the MRI, he had had some additional symptoms and he had gone back to see this naturopath. But this paragraph in particular refers to what he was told after he started going back to the naturopath and he had a mercury scan.

Again, I think when he refers to a mercury scan, I think it is the same concept of holding these little vials in the hand. He was told that the mercury poisoning had been "dealt with" and he hadn't been taking the bentonite clay because it wasn't readily available.

But he said that Dr. Steven told him his pancreas was unable to metabolize carbohydrates. And Dr. Weber believes this was due to the wifi network in his house that

was sending radiation waves to his body and impeding carbohydrate metabolism. So, he had his home hardwired as far as all computers and other electronics to prevent this from continuing. And he was prescribed yet a different supplement called chlorella, which is essentially seaweed or algae, to help with this issue of carbohydrate metabolism.

Q. And if he told you -- did he tell you whether or not that fixed the problem that he was having?

A. Well, he said that he was feeling better after taking it, but, again, we don't have any actual testing or valid workup, diagnostic workup, that would support, number one, the claim that there was any evidence of carbohydrate metabolism or pancreatic dysfunction, which labs could certainly show, or that there was any kind of radiation in the house. I mean, there's -- we don't have any confirmation of that, any radiation that was particularly problematic.

Q. I want to look at Dr. Antonius' report, which is Government Exhibit 1, which is in evidence. I am going to go to page 15 and I'll pull it up on the screen here, Judge; specifically, the first full paragraph, but I'll zoom in here. And you mentioned in questioning earlier that he went to see his primary care and had some blood testing. What -- can you tell us again what he said about that?

A. Well, he didn't say much. He said that he went to his primary doctor at the time, had some basic blood work done

and before even getting the results of that blood work, had gone to see this alternative provider.

Q. And you see Dr. Antonius' statement here, "However, as the years passed and conventional medical advice did not improve his condition, he sought alternative advice from a chiropractor and nutritionist." From what Dr. Weber told you, is that what happened?

A. That was not the timeline that Dr. Weber discussed and certainly, there was no years of conventional medical advice that were talked about. So, he was not given a diagnosis by his primary care doctor and he was not prescribed any specific medications for any specific conditions, because he said that he never followed up.

Q. Okay. Dr. Weber, he's a dentist?

A. Correct.

Q. He was a licensed dentist. To your knowledge, he went to dental school?

A. Went to dental school and not only that, but stayed on as faculty for a number of years.

Q. And what's the significance of that in -- or does that have any significance, in your opinion, about these treatments that he was seeking?

A. Well, I think it is very significant, because here is someone who has trained conventionally in basic sciences, which you have to have a solid background in before you even

apply to dental school. And the first year or two, like medical school, there's a lot of basic science. There's a lot of chemistry, biology, physics that are -- well, maybe not so much physics, but there's a strong background in that.

So, I think it is significant that someone with that background believes that some of these treatments are actually legitimate and is not taking a different approach to his health, which we have no evidence that he wasn't doing in the past.

Q. Was there -- and did that support your conclusions that there was some sort of a disorder here?

A. Yes.

Q. You mention about anti-vax conspiracy theories. Did Dr. Weber talk to you about that?

A. Yes. That came up in the context of discussing his health problems and Dr. Weber looking for alternative explanations for things. And he had become very interested in a naturopath who had been doing some YouTube presentations and videos on the issue of vaccines and how it fits into some conspiracy theories.

Q. And was this something that you felt was a long-time belief by him or something that had come along more recently?

A. No, this was not a long-term belief and he confirmed that fact. For example, with his own children, he certainly did not do any kind of alternative vaccination schedule or avoid

vaccinations with them. So, this was not something that was long-standing. This is something that came about over the last few years.

Q. You mentioned about his -- did he talk to you about his tattoos that he had gotten?

A. Yes, he did.

Q. What specifically did he tell you about those?

A. Well, those, again, were fairly recent. He has a fairly large tattoo over -- I believe it was his left arm. And there were some dates, there were some names. He talked about that being part of his lineage and some sovereign citizen concepts that he had permanently tattooed, which, again, was not something that he had done in the past. He has no other tattoos to speak of.

Q. So, in reviewing this case and in speaking with Dr. Weber, was there any indication that he had sought out any alternative medicine prior to 2006?

A. No.

Q. Was there any indication that he had done any research into or sovereign citizen type practices prior to 2006?

A. No.

Q. And was -- I guess, in your opinion -- I guess what's your opinion of the progression from him being a practicing dentist; he's trained, he licensed, he's on the faculty at UB Dental School as you mentioned and then he is getting body

scans and talking about the wifi interfering with the pancreas? What is your opinion of that progression?

A. Well, it's highly unusual. I mean, here is someone with no history of psychiatric issues or cognitive problems. At age 51 or 52, somewhere along those lines, which would be around 2006, he has this dramatic change in his approach as to how he views his life in general and his health. And it's such an extreme departure from his premorbid level of functioning, that it's just not normal. So, it does warrant a question as to why this happened.

People usually don't wake up at 50 or 55 and have such a radical departure from how they believe things should be. So, I think it's highly unusual and does indicate there's some cognitive dysfunction and I do believe that some of the beliefs that he has are delusional in nature.

Q. And did you try to speak with any family or any other collateral witnesses as part of your evaluation of Dr. Weber?

A. Yes. There were many efforts made to do that.

Q. Did you or Dr. Heffler have any success speaking with any of those other people?

A. So, Dr. Heffler did reach out and was able to connect with Mr. Weber's wife, Peggy Weber, to obtain collateral information.

Q. What did you learn from his wife?

A. Well, the wife confirmed that prior to this, he was a

very honest person, very respectful, nothing really unusual. She confirmed that she knew nothing about the tax things that were happening until the agent came to her to talk about it around 2011. She confirmed that he has alienated, to a certain extent, friends and family because he was talking about the tax issues and the sovereign citizen concept and people really did not sign on to that.

And she also believed that his physical complaints were possibly anxiety-related, but that his approach was certainly at odds with his training and education and background as a dentist. She was pretty shocked by the approach he had taken to manage his health. She thought that was very unusual.

Q. Do you recall what her profession was?

A. She's a nurse.

Q. I want to look again at Dr. Antonius' report, Government Exhibit 1, that's in evidence. Have you reviewed this report?

A. Yes.

Q. I want to look at -- I'll jump to your report, actually. I'm sorry, Judge. And basically, I guess I can explain.

THE COURT: What report are you looking at now?

MR. COMERFORD: I am going to look at Government Exhibit 3, Dr. Cervantes' report.

BY MR. COMERFORD:

Q. So, you reviewed Dr. Antonius' report and then his -- your report, you kind of criticized some of the findings he made in your report?

A. I commented on them, yes.

Q. You commented on them. Okay. So, let's look at page 7, the first paragraph. I'm going to zoom in here. And you state, "Although the results on the cognitive tests selected by Dr. Antonius did not show evidence of cognitive dysfunction, this does not mean that it does not exist. Negative results do not conclusively prove there's nothing wrong." Can you tell us what you mean by that?

A. Yes. Just because a test does not show positive results or a particular finding, it does not mean that the finding is not there and there can be many reasons for this. So, all tests and psychological tests are not any different. They have a certain number of false negative rates.

So, that means there are a certain number of people that will test as normal, but there will be some abnormalities the test isn't sensitive enough to pick it up, or the test that is being picked is not the best test to look at the particular impairment that's in question.

Q. In the second paragraph here, you talk about the WAIS-IV test indicating he is in the average to superior range when compared with other men his age. Was that significant to you

in forming your opinion?

A. Yes, it is.

Q. And what's the significance of that?

A. The significance of this is that Dr. Weber's general intelligence tests quite high and this was not a surprise. So, this would be expected in somebody with his educational level and his professional career and with no history of any cognitive problems in the past. That was not surprising.

This was actually a very appropriate test to include to see what his baseline is and the results show that he is in the average or high average for most of the subtests of that. And in fact, I think Dr. Antonius commented that some of his numbers were in the superior range and that is significant, because when you have somebody who is starting off very high, they can have significant decline in their individual level of functioning, but still fall within the normal range in the test norms in general.

And the test is normed with people of different -- people of certain ages. So, certainly within people his own age, he might test within normal range, but individually, that would still represent a significant decline from where he was prior. And because we don't have prior testing to compare it to, we don't know how significant that decline is, but I do believe it is significant.

Q. Did you have a similar concern about the RBANS test?

A. Yes.
Q. And what was your concern there with how -- I guess what was your opinion of how that test should be interpreted or how it could be misinterpreted for Dr. Weber?
A. Right. So, this particular test is considered to be a screening test for different cognitive domains and it's a very thorough screening test, but it's a screening test. So, it tests things like attention, concentration, memory, some construction ability. There's a figure drawing component to it, but there's some limitations to it.

The first one is that it compares people to other people of the same age. It does not take into account educational level. So, that's a limitation, because someone with a certain education might do a lot better on this test than somebody that does not, but they're all in sort of this normal range.

And the other issue is that it does not include any measures of executive function, which is some of the more complex cognitive abilities that I discuss in my report later on. It does not test for executive dysfunction at all. And because I believe executive function is a big part of Dr. Weber's problem, I think that would have been important to include.
Q. Can you talk about what executive function is?
A. So, executive function refers to some higher order of

cognitive ability. So, these are things like inhibition. So, there is a shift, which we talked about earlier, emotional control and also self-regulation. And when you have problems in these areas, you have issues with people having problems with planning, organization and problem solving. And that is what I see evidence of in Dr. Weber's life.

Q. And was any testing specific to executive function done on Dr. Weber?

A. None of Dr. Antonius' tests touch on executive function.

Q. You mentioned a few areas and I am just going to try and get down to those. So, you talked about shift already. Can you talk about inhibition? What were your findings with respect to inhibition?

A. Well, in my opinion, inhibition is -- well, first of all, I'll define it. It's the ability to really stop one's own behavior when it needs to stop. When somebody has disinhibition, it means that they're unable to pull back or control that behavior. I felt that Dr. Weber showed evidence of disinhibition because he's not able to really consider a rational treatment. He sought fairly impulsively some consultation from alternative medicine and latched onto that.

I thought the behaviors like the tattoo may have shown impulsivity, also the inability to realize that his practice was on -- really not doing well and not being able

to pull back and reverse that. I think that's evidence of disinhibition. I saw some evidence of disinhibition last week when we were in court. He attempted to come from into the courtroom and give some papers to the U.S. Attorney and was fairly persistent and insistent on doing so, but was stopped by the officer at the door, but he was more persistent than he should have been given the circumstances and difficult to redirect, I would say.

Q. I am going to go to the next page here, page 8 of Government Exhibit 3. Can you talk about emotional control and what is that and what were your findings?

A. So, when we talk about emotional control, it is the ability to regulate someone's feelings and emotions with regard to things like organization and planning and also being able to consider other people's emotions and how they're reacting to your behavior and being able to adapt your behavior to what you are seeing.

And I did not -- I felt that, in my opinion, that Dr. Weber showed some impairment in that, that he was very dismissive of other's concerns, was not able to see the emotional impact not only that he was having on others, but that he was having pretty strong emotions related to some of the cognitive beliefs that he had that were really out of the ordinary.

Q. Thank you. And then the last one here, self-monitoring,

can you tell us what that is and what your findings were?
A. Right. So, again, it's the ability to conform your behavior to the expectations of what's needed at a specific time. And Mr. Weber historically was very compliant with things such as maintaining his license; not only his dental license but his driver's license, paying bills, doing all the things that he was supposed to do until he began latching onto the sovereign citizen beliefs.

So, not realizing that you are doing the wrong thing when the expectations are a certain way shows an impairment in self-monitoring and sort of being able to pull back and revert to doing what's correct and not realizing that it is a problem. I mean, that's the other aspect of this.
Q. Did your findings in these categories support your eventual diagnosis?
A. I believe they do.
Q. And what was that -- what diagnosis do these categories support, your findings, I meant?
A. Right. So, I believe that he meets the criteria for a cognitive disorder and it's an unspecified neurocognitive disorder because the exact reason for this is not clear.
Q. And is that typical of neurocognitive disorder?
A. Well, there's some neurocognitive disorders that have some well-defined findings, that there is testing that you can do that will show the pathology, but there are some

cognitive disorders where we're not there yet, where there is no image, there's no lab, there's no workup that's going to definitively give you a conclusion.

That being said, Dr. Weber has not had, by any means, a comprehensive medical workup to try to figure out if there is not some other reason for his cognitive decline. So, that's an important caveat. There could still be something yet untested that could explain some of the deficits, but a lot of times, it's different factors and they're not necessarily visible on an x-ray or visible on an MRI or detected in lab work.

Q. Or in a test, would you say?

A. And sometimes the tests that we use don't pick up certain cases.

Q. In Dr. Antonius' report and I am looking at Exhibit -- this is your report -- page 3 -- sorry -- page 9 of Exhibit 3. You talk about Dr. Antonius' report and his concerns that delusional disorder would be overdiagnosed.

THE COURT: Where are you reading from?

MR. COMERFORD: Page 9, the second paragraph here, Judge. I zoomed in on it here. Exhibit 3, page 9, second paragraph.

THE COURT: All right.

BY MR. COMERFORD:

Q. Do you see this, Dr. Cervantes, what I am referring to?

A. Yes.

Q. And he -- Dr. Antonius makes this point about delusional disorder being overdiagnosed and gives an example of people with eating disorders. Can you explain your opinion on that conclusion and that analogy?

A. Yes. So, I believe Dr. Antonius was trying to draw in other psychiatric disorders where people have unusual beliefs that are not based in reality and trying to draw the distinction between delusion and the beliefs in those types of disorders.

And he talked about eating disorders where people with eating disorders believe that they are usually too thin and have a very distorted body image, but, in fact, most psychiatrists do consider this to be a very serious psychiatric disorder and at times, those beliefs do rise to psychotic levels or delusional levels and treatment is treatment with anti-psychotic medication.

So, we don't necessarily call them a delusional disorder, but we treat it as if it were psychotic and delusional when it becomes extreme. I will mention one of the other examples he used, which was people believing that their spouse is cheating on them when there is no evidence of that. There are many people who are diagnosed with delusional disorder where that is what they believe and it's not based in reality.

So, I am not sure what he was trying to do with that example because certainly, there are people with delusional disorder where that is the focus of attention.

Q. So, delusional disorder doesn't have to mean you think there's dinosaurs and pterodactyls flying through the courtroom. It can mean things that other people believe that seems typical, but could be -- could still a delusional disorder?

A. Well, absolutely. You can have things that are grossly bizarre and call it delusional disorder. So, things that are -- to call it delusional disorder, it really should be something that could be based in reality, but it is not and it's verifiably not, but it can't be bizarre. Then, you start getting into a different type of psychotic disorder. Then, you wonder, are we talking about schizophrenia? Are we talking about something else that is psychotic? But delusional disorder, for the most part, the people that are diagnosed with it, their beliefs are not bizarre at all.

Q. So, in terms of -- I don't know if I'd say it's widely held, but there are a lot of other people who subscribe to these sovereign citizen beliefs, right?

A. Correct.

Q. And also to alternative medicine; even more out there fringe alternative medicine, reflex testing, things like that?

A. Yes.
Q. And was it -- is it your opinion that because Dr. Weber believes these things that other people believe that he, therefore, cannot have some sort of delusional disorder or cognitive disorder?
A. No. No. I don't not believe that's mutually exclusive. I think it's important to focus on why is Dr. Weber, with his background, all of a sudden is taking such a sudden turn in how he perceives things and believing these issues. So, what made him vulnerable starting around 2006 where now he actually believes this stuff?
Q. Now, you testified that you had evaluated other sovereign citizens and I think you said you evaluated two of them previously?
A. Yes.
Q. And you are familiar with other sovereign citizen type cases?
A. Right.
Q. So, you have reviewed the literature that says most of them at least are found by other experts to not be delusional?
A. Correct.
Q. And at least one of the -- the other person you mentioned reviewing for a federal case you found was competent. You found that that person was not delusional. He was competent?

A. Competent and not delusional, right. So, the sovereign citizen beliefs were not.

Q. So, how is Dr. Weber different from those cases? Why are these just extreme beliefs? Why is it different?

A. Well, I think what makes this case different is that Dr. Weber began believing this stuff when there was no clear precipitant or vulnerability that we can identify, so there wasn't a crisis. There wasn't a financial crisis specifically that could explain why somebody would want to start doing this stuff.

And the other thing is his background and his premorbid functioning up to that point. Here is somebody with no history of unusual beliefs or alternative bend to his philosophy. He's conventionally trained in scientific -- presumably the regular scientific method, practicing conventional dentistry and he's taking such a departure from what is considered good science. I think that makes him very different.

And it's also not particularly self-serving. A lot of sovereign citizens that subscribe to these beliefs derive a lot of benefit from it and they get very self-serving and there -- this is a case where I think things went south very quickly. And it has, in my opinion, been extremely detrimental to his life. So, it does show significant impairment and negative consequences, which there was no

precipitant for.

Q. Now, you have talked about your diagnosis both of possibly delusional disorder, but then a neurocognitive disorder. Am I saying that right?

A. Yes.

Q. Did you reach an opinion to a reasonable degree of medical certainty as to his competency to stand trial?

A. Yes.

Q. And what was that opinion?

A. My opinion is that he's not competent to stand trial.

Q. And did you also reach an opinion to a reasonable degree of medical certainty as to his competency to represent himself at trial?

A. Yes.

Q. And what was that opinion?

A. That he's not.

MR. COMERFORD: Judge, I just want one second. Judge, I have no further questions on direct.

THE COURT: All right. We'll take a 15 minute recess. Court will be recess.

THE CLERK: All rise.

(Brief recess.)

THE CLERK: All rise. You may be seated.

THE COURT: All right, Ms. Kresse?

MS. KRESSE: Thank you, Judge.

CROSS-EXAMINATION

BY MS. KRESSE:

Q. Good morning, Dr. Cervantes.

A. Good morning.

Q. My name is Maryellen Kresse. I am one of the prosecutors in this case. One of the of last things you testified about on direct examination by Mr. Comerford is you -- he inquired about why in your opinion you felt that Dr. Weber was different than other sovereign citizens that present. Do you recall that?

A. Correct.

Q. And one of the things that you mentioned is that he began believing out of the -- basically, out of the blue?

A. Correct.

Q. And there was no crisis that precipitated it?

A. Correct.

Q. There were no financial crisis that would precipitate this method of thinking, correct?

A. Correct.

Q. Okay. Do you know, however, about the history of Mr. Weber's dealings with the IRS in this case?

A. I am not sure what specific part of it you mean.

Q. Prior to you evaluating and meeting with Mr. Weber, you obtained some information about the criminal charges in this

case, correct?
A. Correct.
Q. So, you are aware that the criminal charges emanate from a failure of Mr. Weber and allegation that Mr. Weber had failed to comply with the tax laws, correct?
A. Correct.
Q. And specifically that in two tax years, 2006 and 2007, he filed non-resident alien tax returns?
A. Correct.
Q. And you are aware of that?
A. I am.
Q. And so, in terms of your evaluation of the manifestation of this ideology by Mr. Weber, you are going by the tax years of 2006, 2007, correct?
A. Well, I am going by those tax years, but obviously, 2006 is filed in 2007 and 2007 is filed if 2008 and there's some delay. So, it is -- some of the stuff may have started as early at 2006.
Q. Right. And in fact, Mr. Weber tells you about and has a very specific recollection of a radio broadcast, I believe it is, where he first hears about these issues, these tax protestor issues, whereas there are ways you can get out of paying your taxes, correct?
A. Correct.
Q. And based on what Mr. Weber to you, this was what

precipitated his move into sovereign citizen territory, correct?

A. Correct.

Q. Okay. But did you know that his troubles, his issues with the IRS, began years before that?

A. I was not aware of trouble with the IRS before that. I was aware that at times there was some delay in paying taxes, but they were always paid. And that was the information we obtained from his wife.

Q. Do you know that 2003 was the last tax return that Mr. Weber actually filed with the IRS?

A. I don't know if I knew that.

Q. Did you know that in 2004 and 2005, for those tax years, the IRS actually filed substitute returns for Dr. Weber?

A. No.

Q. So, you didn't know that Dr. Weber did not file returns in those two years and so the IRS, what they did is they determined how much money he made by 1099 from insurance companies, determined how much income he had and actually filed returns for him? You did not know that?

A. I was not aware of that. I was aware that subsequent to 2006 and 2007, he had not filed any returns. That's what was I told; that there was no further submissions of returns after that. I don't know that I knew anything about between 2003 and 2006.

Q. Right. So, what I am trying to do is to give you some background information, because it may have an impact on your opinion that -- or your belief that the sovereign citizen ideology of Dr. Weber began without any precipitation, without any crisis, because, in fact, prior to 2006, he was having issues with the IRS. Did you know that in 2006 and 2007, those returns were not filed by Mr. Weber until 2009? Did you know that?

A. I did know that and that -- I know that there was a delay.

Q. And did you know that the reason Mr. Weber filed in 2009 was because the IRS told him that he needed to file those returns by a certain date?

A. I didn't have that information.

Q. And did you know that they specifically directed him that he needed to mail those returns to a particular person at a particular address?

A. I didn't have anything pertaining that.

Q. So, prior to 2006 and continuing until 2009, Mr. Weber, in fact, did have a crisis in his life and that was that the IRS was onto him and they were after him for failing to file his tax returns, correct?

A. Again, I did not receive information about prior tax years, so this is the first I am hearing about this.

Q. But if you had known that the IRS from 2004 to 2009 was

after Mr. Weber to file his tax returns, would that change your statement that this was something that was unprecedented and unprecipitated by any crisis?

A. Well, I did not know this information, but my understanding was that there really wasn't financial issues before then. It still wouldn't change my opinion that there's something cognitively impaired here, because there's all these other beliefs surrounding his health and these treatments that he is subjecting himself to, which have nothing to do with this.

Q. But what I am focusing on right now is the sovereign citizen ideology that Mr. Weber glommed onto at a certain point, correct?

A. Mm-hmm.

Q. And one of the issues among psychiatry, one of the aspects section that psychiatrists and psychologists look at what evaluating sovereign citizens is the method of development of that ideology, correct?

A. Correct.

Q. And whether or not someone falls outside of that cultural belief, right?

A. Correct.

Q. And it's your determination that Mr. Weber fell outside of the typical sovereign citizen?

A. Yes.

Q. And one of the reasons why you felt that he fell outside of the typical sovereign citizen ideology, that cultural belief, was because you felt there was no crisis, no financial reason or motivation that caused him to all of a sudden start believing in these things?

A. Well, among other things. That was one of the reasons, right.

Q. But we're talking now about the sovereign citizen piece of it.

A. Right.

Q. Okay. So, in 2006, when Mr. Weber hears that there might be an excuse for his failure to file his tax returns for 2004 and 2005 and his 2006 is probably due, he picks up on that because he's going to try to use that to his benefit, isn't that true?

A. It's possible.

Q. So, you are trained as a forensic psychiatrist and you went through your background with Mr. Comerford and for the Court, correct?

A. Correct.

Q. And in that capacity, you evaluate defendants to determine whether they're competent to stand trial?

A. Correct.

Q. You testified on direct examination that you conducted between 500 and 600 evaluations in total?

A. Throughout my career, yes.
Q. And then, you were asked to on direct examination about experience you had with sovereign citizens?
A. Mm-hmm. Yes.
Q. Do you recall that?
A. Yes.
Q. And I believe you testified that you have been -- other than Dr. Weber's case, that you have been involved in two cases involving sovereign citizens, is that accurate?
A. Yes.
Q. And in one of the cases, you found the individual to be competent and in one, you found the individual not to be competent, correct?
A. Correct. No. Wait. I'm sorry. The previous two cases, one of them with a state case and in that case, I believe, the opinion was ultimately competent. The federal case that I recently did was also found competent. So, there was no finding of incompetency.
Q. Oh, both of those were found competent?
A. Mm-hmm.
Q. Okay. Thank you. Now, your involvement with those cases, when was that involvement in relationship to your request to become involved with Mr. Weber's case?
A. The first one was several years ago, probably around three or four years ago. And the second one was six months

ago. So, it was kind -- this case had already started when I was asked to see that other case.

Q. And the one that was, I believe, you said was six months ago?

A. Yes.

Q. Was that the state case?

A. No. That was federal.

Q. That was the federal case?

A. Yes.

Q. And did the individuals -- and I am going to talk about the one that was six months before, because that one was before Dr. Weber's case, okay?

A. Well, it is six months from now, so six months ago from now that was I conducted, I believe, approximately.

Q. Okay. All right. So, let me ask a different question. Prior to the Public Defender's Office contacting you and asking you to evaluate Mr. Weber, had you ever evaluated a person who presented with sovereign citizen beliefs?

A. Yes. One.

Q. One. And who was that?

A. That was a state case. I don't recall the name.

Q. No, no, that's fine and I don't actually mean to ask you that.

A. Okay.

Q. But that was the state case?

A. Yes.
Q. Okay. Was that state case a sovereign citizen who was a tax protestor?
A. No. I don't believe that was the issue.
Q. Did the individual that you evaluated in terms of the state case, did that person manifest the same sovereign citizen beliefs as Mr. Weber?
A. They weren't as complex. There was some of it, but not the intricate, in-depth, convoluted mess that this is.
Q. Was the person who you evaluated for state court, was that a person who had anti-government beliefs?
A. Anti-government, anti-court. They did not believe that the court had jurisdiction over his case, if I recall correctly, but this -- I don't recall a lot of the details. That was a state 730 and it was very narrow. I did not get into a lot of background information on that person.
Q. In your training to be a psychiatrist, had you ever received training regarding sovereign citizens and the types of specific problems that they present in terms of diagnosing psychosis?
A. No. This was not the specific curriculum item in my training.
Q. And so, the first time you become aware of the sovereign citizen sort of ideology was in the state case?
A. Yes.

Q. And when was that? And again, just because I'm confused --

A. Three or four years ago. It was several years ago, because I was still working for Erie County. It was a 730 and it would have been ordered through Erie County.

Q. Prior to evaluating Mr. Weber, were you aware of groups that espoused the belief that you didn't have to pay taxes?

A. Yes.

Q. And was that in conjunction with this umbrella of sovereign citizen ideology?

A. Right. That comes up. When you look up one, then you usually get that.

Q. Right, because there are different groups in there. Some groups that are specific tax protesters like posse comitatus. That was their modus operandi, right? They were mostly tax protestors, correct?

A. Correct.

Q. And sovereign citizens, you -- people who accept that ideology are not necessarily tax protestors?

A. No. And it's just not about taxes. It's broader.

Q. So, prior to evaluating Mr. Weber, had you heard of posse comitatus?

A. I don't know if I've known about that specific group, no.

Q. Had you known about the term "tax defiers"?

A. I don't know if I knew it as tax defiers, but I knew

there were tax protesting groups.
Q. And what was your understanding of tax protesting groups?
A. Well, I mean, in general, they find reasons to justify not paying taxes. There very varied in their reasons for it. Some of them trace it back to their lineage. Some of them trace it back to the wars and what their family did and trades that were made with Europe. It's messy and complicated.
Q. True, but isn't it fair to say that many of those arguments about lineage and tracing things back to wars, that it deals with citizenship and how they define citizenship, correct?
A. Right.
Q. And for Mr. Weber, it's whether or not he's a citizen of the United States versus a citizen, for example, of the State of New York or some other entity that he defines?
A. Correct.
Q. Prior to evaluating Mr. Weber, had you heard of the group We the People?
A. I knew that they had a group. I wasn't -- I mean, I had not had a case where that came up before, specifically.
Q. Had you done any research into We the People?
A. Before this case?
Q. Yes.
A. No.

Q. But obviously, you had heard of sovereign citizens, for example, right?
A. Correct.
Q. And you are aware of the existence of the Ku Klux Klan in this country, correct?
A. Yes.
Q. And the Aryan Nation?
A. Yes.
Q. Neo-Nazis correct?
A. Yes.
Q. And you would agree these type of white supremacy groups adhere to ideas about various races and religions that most people would consider delusional, correct?
A. Are you talking about all those groups?
Q. I am talking about white supremacy groups, whether they manifest them selves under a tile of Ku Klux Klan or Neo-Nazi, but they have beliefs about religions and about races that most people in society would consider to be delusional?
A. Well, I don't know that most people in society consider it to be delusional. We certainly don't diagnose them as that.
Q. And that is because it's a cultural belief system, correct?
A. It is a cultural belief system, yes.
Q. And so, the lay person might consider somebody who says

that a minority is not equal by virtue of color of his or her skin to be delusional, a lay person might say that is delusional, correct?

A. Using that as a lay term, yes.

Q. Yes.

A. But professionally, we couldn't call that delusional.

Q. Right. So, there's a difference between delusional, like crazy; like when we say somebody is crazy and delusional for purposes of a diagnosis by a psychiatrist or psychologist, correct?

A. Correct.

Q. And where you are looking at the belief systems of white supremacy groups, you have to consider that there are hundreds of thousands of people who, for whatever reason, accept this ideology that that is the same amongst a group of people, correct?

A. Correct.

Q. And the DSM, which is the diagnostic manual utilized by psychologists and psychiatrists, tells psychiatrists and psychologists that prior to diagnosing somebody with a delusional disorder, you must take into consideration this cultural phenomenon; so that if this is a craziness or a strange idea that's adopted by a culture of people, a movement of people, that it is not delusional, correct?

A. Well, for an individual person, however, that individual

person adopting certain beliefs can be delusional.
Q. And then, we get back to what we talked about a few moments ago, which is sort of the onset of that delusion, correct?
A. Right, what makes people vulnerable to believing certain things.
Q. And your belief that, in your opinion, that what made Mr. Weber different than the culture of sovereign citizens was because there was no motivation for him to glom onto this ideology? That was the basis of opinion, correct?
A. That was part of it, yes.
Q. Right. But, in fact, as I have asked you these questions, you didn't know about the fact that he had tax problems and he was being contacted routinely by the IRS before he ever decided to adopt the beliefs of the sovereign citizens?
A. I didn't have any information, no.
Q. Right. You did not know that?
A. I did not know that.
Q. So, that's something that is relevant to whether or not Mr. Weber is just your typical sovereign citizen who falls within that culture or whether there's something about him that takes him outside of that culture, correct?
A. Correct.
Q. You testified on direct that you are familiar with the

Parker article, for example, correct?

A. Yes.

Q. Okay.

MS. KRESSE: And Your Honor, before the witness are a number of -- are all of the reports, but I actually have the ones that have the exhibit numbers on, so with the Court's permission, if I could just substitute the marked Government Exhibits for what she has before her.

THE COURT: I'm not following you.

MS. KRESSE: The witness had during her direction --

THE COURT: She has Government Exhibit 4, the Parker.

MS. KRESSE: She does not have that in front of her. She does have the reports, her two reports.

THE COURT: Okay. You can show her the Government Exhibit 4.

MS. KRESSE: Okay.

THE COURT: It is in evidence.

MS. KRESSE: And I am also going to put before her the other exhibits, because she was referring --

THE COURT: What other exhibits are you referring to?

MS. KRESSE: Her two evaluations.

THE COURT: Okay. All right.

MS. KRESSE: Dr. Antonius' evaluation.

THE COURT: That's Exhibits 2 and 3?

MS. KRESSE: 1, 2 and 3.

THE COURT: Okay.

MS. KRESSE: And then 4 and 5 are the two articles.

THE COURT: In other words, all the government's exhibits?

MS. KRESSE: Yes.

THE COURT: Okay. They're all in evidence.

MS. KRESSE: I know, but the ones she has in front of her don't have exhibit stickers on them.

THE COURT: Okay. Well, give her the ones that are exhibits that are in evidence here.

(An off-the-record discussion was held.)

THE COURT: You have seen all these exhibit before?

THE WITNESS: I have.

THE COURT: Okay.

BY MS. KRESSE:

Q. So, on direct examination, you were asked about Government Exhibit 4, which is the Parker article, correct?

A. Correct.

Q. Okay. Did you know about this article before you evaluated Mr. Weber?

A. I did not.

Q. And Government Exhibit 5 is an article by two authors, one of whom is Pytyck. Do you see that?

A. Correct.

Q. Is that an article that you were aware of before you

evaluated Mr. Weber?
A. No.
Q. And in fact, in your first report, which is Government Exhibit 2 -- and if you have that in front of you. If you look at -- so, this is Government Exhibit 2, your report dated October 30th of 2016. On the bottom of page 1 and continuing to page 2, there's a reference to the sources of information for your report, correct?
A. Correct.
Q. Is there any reference in there to any research that you did relative to sovereign citizens?
A. No.
Q. There's no reference there to the Parker article, for example?
A. No. I wouldn't typically do that. I would not put scholarly articles as references unless I am specifically pointing to them in my report.
Q. And you don't point to any scholarly articles regarding sovereign citizens in your report?
A. I don't think -- I don't believe I did. I know Dr. Antonius did, but I don't believe that I specifically pointed to those articles, but they were reviewed prior to submitting the evaluation, but I don't typically put scholarly articles in my sources of information. I have never done that.

Q. And just to clarify something. So, you evaluated Mr. Weber on August 18, 2016 and August 26th, 2016, correct?
A. Correct.
Q. And that's notated on Government Exhibit 2 under dates of evaluations?
A. Yes.
Q. And again, just because I want the record to be clear, your testimony is that before you evaluated Mr. Weber in August of 2016, you had not read the Parker article or the Pytyck article about sovereign citizen and psychiatry, essentially?
A. Well, I don't know if I read the article before seeing him or not. I may have pulled the article in anticipation of interviewing him. I don't know at what point in the evaluation process I pulled the article. I don't know.
Q. Right. And that's what I want to clarify, because I think I created the impression that you hadn't looked at either of these articles prior to doing the report and I don't think that's what you were saying.
A. No, that is not what I'm saying. There were absolutely already reviewed and I know this because we did a case conference on this case anonymously. Obviously, we didn't use names. And as part of this, the fellow and I pooled the research that was out there. And by the way, these articles are 2013 and 2014. These would not have been available at

the time I did my prior sovereign citizen evaluation because it was three or four years ago. These probably weren't even out there. These are pretty recent.

Q. Right, but you are referring to the state evaluation you did a few years ago?

A. Right.

Q. Okay. But they were available at the time you were asked to evaluate Mr. Weber?

A. Yes. And I reviewed them.

Q. Right. So, I think I've clarified that although you may not have read them before you met Mr. Weber, you read them prior to authoring your report dated October 30th, 2016?

A. I don't recall. I could look that up, but I don't have the electronic with me to do that, if you really need to know that.

Q. No, no. You may or may not have then?

A. Yes.

Q. But at some point, you become familiar with the Parker article, for example?

A. Yes.

Q. And in fact, in October of this -- of 2017 rather, you sat on a panel in Colorado with Dr. Parker?

A. Correct.

Q. All right. But, again, there's no reference to any sort of research that you did in terms of sovereign citizens in

your first report, which is Government Exhibit 2?

A. Correct.

Q. In your diagnosis -- after you met with Mr. Weber in August of 2016, your diagnosis was that he had a delusional disorder mixed type, correct?

A. Correct.

Q. And is it -- correct me if I am wrong. That was based on sort of two prongs; one, his sovereign citizen beliefs and secondly, his somatic complaints?

A. Correct.

Q. Dr. Heffler, Melissa Heffler, she was a fellow of yours at the time?

A. Yes.

Q. And when you met with Mr. Weber, was Dr. Heffler also present?

A. The first two interviews, yes.

Q. But not the third that is the basis for your addendum?

A. Correct.

Q. So, the first two interviews that formed the basis for your October 30th, 2016 report, Dr. Heffler was present during those interviews?

A. Yes.

Q. And at that time, I believe you met with Mr. Weber in total of five and a half hours?

A. Correct.

Q. And that included the administration of that personality test, the MMPI-2, correct?
A. Correct.
Q. How long does that take?
A. Most people can do it in about an hour. I think that's about -- took about an hour.
Q. So, if we deduct an hour for that test, you and Dr. Heffler spent about four and a half hours talking with Dr. Weber, correct?
A. Yes.
Q. Now, prior to evaluating Mr. Weber, you understood that he was a middle-aged man, right; that he was in his -- at the time of his interview, that he was 60?
A. Correct.
Q. And at the time of sort of the manifestation of this sovereign citizen ideology, he was in his 50's, correct?
A. Correct.
Q. And he was a white male, you knew that, correct?
A. Yes.
Q. And that he had been born in the United States?
A. Yes.
Q. He had been educated in the Buffalo area, went to Canisius High School, correct?
A. Yes.
Q. Went to UB Dental School?

A. Yes.
Q. And yet he claimed that he was a non-resident alien of the United States, correct?
A. Correct.
Q. And prior to meeting with Mr. Weber, did you have an understanding that this claim of not being a citizen of the United States was sort of a typical sovereign citizen argument?
A. Yes.
Q. You knew that. One of the things that you focused on during your direct was the fact that, at the time, Dr. Weber who was an educated dentist and his own practice, all of a sudden in his 50's, based on what you understood to be no precipitating factors, suddenly adopted the sovereign citizen ideology, correct?
A. That and the health issues --
Q. Right. And --
A. -- around the same time.
Q. And I understand the health issues are always part of your analysis and we'll get to those. So, at this point, I am just focusing on the sovereign citizen piece of it. Doesn't a man in his 50's who suddenly has a change of viewpoint in terms of his life and his career and his family, isn't that not atypical? Isn't that what we call commonly a midlife crisis?

A. Well, I think that's a very superficial way of doing it. I think this became more extreme than what we refer to as a midlife crisis and it warranted some further investigation.
Q. I am not suggesting that it doesn't, but in terms of those factors, a man in his 50's, otherwise successful, who suddenly goes off the rails and decides I am not going to -- I am leaving my family, I don't care about my career anymore, that happens to men in midlife. It does happen, correct?
A. I suppose it does, but it's concerning.
Q. Right, but it's not a delusional disorder?
A. Well, in and of itself, no, that would not be delusional.
Q. And again, all I am suggesting is there are other explanations and I am inquiring whether you considered the other explanations prior to diagnosing Dr. Weber with a delusional disorder. And you are aware that he was having some marital problems before he decided to get a divorce?
A. Yes.
Q. And those were somewhat long-standing. I am not going to put a number of years, but it was somewhat long-standing, correct?
A. Yes.
Q. Okay. And at the point -- and I am going to focus on Dr. Parker's article --
THE COURT: I think what we're going to do -- I have some other matters and I think we're going to take a break

until 1:30. We'll resume at 1:30.

MS. KRESSE: Okay. Thank you, Judge.

THE CLERK: All rise.

(Brief recess)

THE CLERK: Criminal action 2015-10A. United States v. Charles Weber. Continuation of competency hearing. Counsel, please state your name and the party you represent for the record.

MS. KRESSE: Good afternoon, Judge. MaryEllen Kresse and Patricia Astorga for the United States.

MR. COMERFORD: Good afternoon, Your Honor. Brian Comerford for Dr. Cervantes. He's present.

THE COURT: Okay. Ms. Kresse, everybody ready?

MS. KRESSE: Yes, Judge. Thank you.

BY MS. KRESSE:

Q. Dr. Cervantes, earlier in my cross-examination I asked you and you had told us a little bit about the federal court case that you had where you had evaluated a defendant who exhibited some sovereign citizen ideology.

A. Correct.

Q. Do you recall that? Was that the case of Valentino Shine?

A. Yes.

Q. And that's a case, if you know -- do you recall if it was in front of Judge Geraci?

A. I don't know the judge's name.
Q. No problem. Now, the evaluation of Mr. Shine, that was after you evaluated Dr. Weber?
A. Correct.
Q. Do you recall that Mr. Shine was indicted on drug distribution and human trafficking counts?
A. Yes.
Q. And what he was accused of doing is drugging women and then prostituting them, correct?
A. Correct.
Q. And in terms of his sovereign citizen ideology that he exhibited, is it fair to say that it focused primarily on the jurisdiction of the court?
A. Yes.
Q. And this federal court did not have jurisdiction over him?
A. Yes.
Q. And you concluded that despite this ideology, that he was not delusional?
A. Correct.
Q. And, in fact, that he was competent to stand trial?
A. Correct.
Q. And I understand that each defendant that you evaluate is different, so there are aspects of Mr. Shine's evaluation that I am not asking you questions about that I am sure were

relevant to your evaluation and your conclusion, but I am just focusing on this particular aspect of the sovereign citizen ideology. Okay?

A. Okay.

Q. So, with respect to Dr. Weber, in your first report, you did diagnose him -- and this was the report that you did with Dr. Heffler -- you diagnosed him with delusional disorder mixed type, correct?

A. Correct.

Q. And then in your addendum, which is Government Exhibit -- and it's in front of you -- Government Exhibit 3, which is dated November 2nd of 2017, you submit that after you have had an opportunity to review Dr. Antonius' report, correct?

A. Correct.

Q. And that's the report that's marked as Government Exhibit 1?

A. Correct.

Q. You also submit that after you have had an opportunity to interview Mr. Weber on another occasion for another two hours and 30 minutes, correct?

A. Correct.

Q. And in that forensic examination addendum, Government Exhibit 3, you move away from the delusional disorder mixed type diagnosis, don't you?

A. I move away from it, but I don't disregard that there are

still some delusional beliefs that he has, but I believe that they're part of a larger cognitive disorder as opposed to just delusional disorder and nothing else.

Q. And delusional disorder and cognitive disorder are completely separate, correct?

A. They are two separate diagnoses, yes.

Q. And in terms of the DSM, which is the diagnostic tool used by psychologists and psychiatrists, a cognitive disorder is one that has physiological links or physiological evidence typically, correct?

A. Well, it has psychological links, but it might not necessarily be visible.

Q. And are you referring to the fact that there could be, for example, an MRI that would not exhibit changes indicative of a cognitive disorder?

A. Correct.

Q. How typical is that, in your experience?

A. Well, it depends on what type of cognitive disorder you are talking about. So, people with advanced age who have certain cognitive disorders like Alzheimer's dementia or Parkinson's-related dementia or Huntington's disease that lead to dementia, those cognitive disorders do have certain markers you can see on imaging. It's a little more difficult when you are talking about younger people that don't have visible changes, though more unusual.

So, you can have people with cognitive impairment that don't have any visible changes on imaging or on other tests. There are some people who have abnormal labs, for example, people with very abnormal thyroid function or vitamin B12 or folate deficiency that are extreme, or carry syphilis. I mean, all of these are reasons for cognitive impairment that have lab markers, but those are fairly rare.

Q. And the cognitive disorders that you refer to, like Alzheimer's and dementia, those are types of cognitive disorders that would have findings on an MRI typically?

A. Not necessarily. In the early stages, it might be completely normal. You might not see any evidence of it. But later stages, there might be some evidence of, you know, brain changes, but not necessarily early on. So, the older somebody is, the more likely there is to be changes that are visible.

Q. And did you conclude at some point that Mr. Weber had signs of early onset of dementia?

A. I wouldn't call it dementia. I would say cognitive impairment. And yes, I did believe after -- when I re-evaluated him for the second part of the evaluation, based on additional information that had come about based on how he was handling his case, things that he had submitted, the problems that he was having with the law in state court, the deterioration or the relationship with his attorney, all of

those things factored in to me believing that there was some cognitive impairment. And after reviewing Dr. Antonius' report, I believe that perhaps the tests that were picked were not sensitive enough to pick up on some of those subtle impairments.

Q. And in terms of -- you referenced Dr. Antonius' testing that he performed. If you look at Government Exhibit 1, which is his report, under "Sources of Assessment" which is on -- beginning at the bottom of page 1 and continuing to page 2 --

A. Yes.

Q. -- do you see at the very top of page 2 there's a reference that reads, "Email from defense counsel on January 13, 2017 to Ms. Kresse referencing a case presentation by Dr. Cervantes received on April 17, 2017"?

A. Yes.

Q. Do you see that? Do you know what that's referring to, your case presentation?

A. Yes.

Q. And then if you go to page 10 of Exhibit 1, under the heading -- it's at the very bottom of the page, under the heading "Cognitive Functioning" --

A. I am sorry. Which page?

Q. Page 10 of Government Exhibit 1.

A. Yes.

Q. At the very bottom of the page, do you see the heading "Cognitive Functioning"?
A. Yes.
Q. And under that heading, Dr. Antonius -- is it fair to say that he explains why he did assessments of Dr. Weber's cognitive functioning?
A. Yes, it does. It says, "Dr. Weber complained of short-term memory problems and collateral information, makes mention the possibility of a memory disorder."
Q. And then where you left off reading in a parenthetical, do you see the part where it says, "In an email from defense counsel Brian Comerford to Ms. Kresse, Mr. Comerford refers to a case conference in which the possibility of, quote, an unusual presentation of an early dementia, end quote, was brought up"? Do you see that?
A. Yes.
Q. And so this reference to the presentation of an early dementia, that was something that you brought up in your case presentation, correct?
A. Well, I want to be clear we're talking about the same case presentation. This is not this October's presentation.
Q. Right.
A. This is the fellowship case presentation that we put together much earlier. And these suggestions were actually -- or these diagnostic considerations were brought

up by numerous faculty members. It wasn't me personally. It was a discussion that we had amongst the group of attending that go to this conference.

Q. So, is it fair to say -- and again, this is not October of 2017. This is prior to Dr. Antonius' report, which is dated July of 2017?

A. Correct.

Q. Okay. So, is it fair to say that at that conference that Dr. Antonius refers to, there was a suggestion relative to Dr. Weber that he presented an unusual presentation of early dementia?

A. It was discussed as one of the possibilities, yes.

Q. And you presented that information then to Mr. Comerford, Mr. Weber's attorney, correct?

A. Correct.

Q. So, you thought -- you believed that it had sufficient validity to present it to defense counsel?

A. Yes.

Q. Okay. But when you did the MRI or when you had the MRI performed, because obviously you don't do that -- and that was an MRI of Mr. Weber's brain, correct?

A. Correct.

Q. -- there were no signs of dementia?

A. Nothing that was obvious.

Q. And then you talked about another way of diagnosing

cognitive or neurocognitive disorder is through neuropsychological testing, correct?

A. Correct.

Q. And on direct examination, you talked about some of the tests that were performed by Dr. Antonius?

A. Correct.

Q. And is it fair to say that -- well, let me ask you this. Do you know how many tests there are available to psychologists and psychiatrists that test neuropsychological disorders?

A. It's probably dozens, if not hundreds. There's numerous.

Q. And would you also agree that in terms of the difference between a psychiatrist and a psychologist, it is the expertise, to use that word, of a psychologist to perform testing including neuropsychological testing?

A. Well, testing is definitely more in the psychologist's area. Neuropsychologists have additional training to perform some of the more complicated and thorough tests. But yes, as opposed to psychiatrists, if that's what you are asking.

Q. Correct. So, Dr. Antonius is a psychiatrist?

A. No.

Q. I'm sorry. Dr. Antonius is a psychologist?

A. Yes.

Q. And he's a forensic psychologist?

A. He calls himself that, yes.

Q. Well, are you suggesting he's not --
A. No.
Q. No, no, I'm serious. Are you suggesting that he's not?
A. When physicians call ourselves forensic psychiatrists, usually they have board certification that goes along with that, but I think psychologists treat the nomenclature differently. So --
Q. In fact, they do, right? I mean, doctors, MDs are always talking about what they are -- they are board certified and board certified in what, correct?
A. Correct.
Q. And isn't it fair to say that physicians have to be board certified in their speciality?
A. No, they don't.
Q. They don't have to, but most are?
A. If they've done the subspecialty training, they usually go along and do that.
Q. And in psychology it's not the same?
A. It's not the same.
Q. Okay. So, when we talk about whether or not Dr. Antonius was board certified, it's really not the same suggestion that you are making that somehow that is indicative of less training or less expertise in the area, correct?
A. No.
Q. Okay. So, Dr. Antonius is a psychologist. His

speciality is in performing psychological testing to include neuropsychological testing, correct?
A. Correct.
Q. And as a psychiatrist, you do not perform testing yourself -- I mean, I know you did the personality test --
A. Right.
Q. -- for Mr. Weber, but that was something where you sent the results to be analyzed by a company, correct?
A. Correct.
Q. But in terms of neuropsychological testing, like the RBANS, for example, or intelligence tests, that's not anything you are involved in giving to a patient?
A. No. If I feel that that's needed, that's something I would refer to a psychologist or neuropsychologist to do.
Q. And in fact, you have had a working relationship with Dr. Antonius in the past working on a case, *United States vs. Baschmann*, where you felt that psychological testing for Mr. Baschmann was necessary, correct?
A. Yes.
Q. And you referred that testing to Dr. Antonius to perform, correct?
A. Correct.
Q. And so, that's not out of the ordinary for you to -- for a psychiatrist and psychologist working together to utilize all the tools that are available in order to be able to

properly diagnose somebody with a disorder, if one exists?
A. If it's something we feel is needed, we will collaborate.
Q. And you are not suggesting there was no basis for Dr. Antonius to perform the neuropsychological testing he performed, correct?
A. No.
Q. Your issue is the tests that he chose were not designed to properly evaluate whether or not Mr. Weber had a cognitive disorder?
A. Well, that's not a yes-or-no question and I can qualify that. The tests are adequate. The tests are frequently used. They're normed. The issue I have with these tests is that for individuals who have a very high level of education or who start out with a very high level of intellectual functioning, often these tests will not show impairment on the test. Somebody can still test within the normal range but still have a significant decline from their premorbid level of function that that test will not pick up.

And one of the other issues I have with the testing is that none of the tests that he selected really focussed on executive functioning.
Q. And that's based on your understanding of the testing?
A. Yes.
Q. But, again, you are not an expert in testing?
A. I am not.

Q. Okay. And you don't administer the tests, correct?
A. Well, a lot of the tests I can't administer. You have to be a psychologist to obtain them and be trained to use them.
Q. Right. And you are not trained to use the tests?
A. I am not.
Q. So, it goes without saying then that if you are not trained to give the tests, you are not trained to read the results, correct?
A. Well, I am not trained to read the raw results, but I can certainly read and understand the interpretation and I know, generally speaking, what those tests are supposed to look for. So, for example, if I order an MRI -- I am not a radiologist, but if I order an MRI of the brain and I tell the radiologist that I am concerned about a stroke or I am concerned about a vascular disease, I expect the radiologist will protocol that test to look for that. I don't tell them how to do that protocol. I leave that up to them to chose the protocol that's indicated.

And the same with a psychologist. I would never tell a psychologist I want this, this, this and this exact test. I tell them these are the concerns we have and you know, you select the tests for this. This did not happen in this case because Dr. Antonius was not somebody I was directly collaborating with.
Q. Right. And so, you leave it to the psychologist to

select the tests, correct?
A. Correct.
Q. And Dr. Antonius, based on the suggestion that perhaps there was an early manifestation of dementia as well as the subjective complaints by Mr. Weber of memory problems, he chose to administer neuropsychological testing?
A. He selected the tests that he wanted to administer.
Q. Right. And he administered those and he got the scores and he interpreted them, correct?
A. Correct.
Q. And he looked at the raw data, the raw test scores, yes.
A. Correct.
Q. You did not, but you are questioning his interpretation of the raw data?
A. I do question it.
Q. Right. Even though --
A. Not because it is inaccurately scored, but just how that fits into this individual case relative to how this individual may have been functioning earlier on.
Q. Isn't there a big difference between reading a psychological or neuropsychological test which is dealing with things of the mind as opposed to what you were testifying about a moment ago, an MRI and a radiologist reading the MRI where there's actual physiological changes in the brain that are going to be documented or should be

documented, it's a totally a different realm?
A. It's a different realm, but I know which tests test for what. I know, for example, that the RBANS has no test of executive functioning, so it's not going to show executive dysfunction.
Q. And so, if Dr. Antonius were to testify that the RBANS does test for executive functioning, you would say that he is incorrect?
A. I would.
Q. Even though he is an expert in RBANS and scoring and interpreting RBANS?
A. I would. It's not a test that is known to test for executive functioning.
Q. So, again, this is your opinion that is based on something that's not your area of expertise?
A. It's based on other cases that I have had where I have reviewed neuropsych testing and incorporated neuropsych testing into the opinion and whenever executive function is of significant concern, there's always other tests that are added if the RBANS is being used.
Q. And was executive functioning something that you mentioned in your original report?
A. In the first report? No.
Q. So, executive functioning is something that was mentioned for the first time by you in your second report, your

addendum, correct?

A. Correct.

Q. So, it is not that Dr. Antonius would know that executive functioning, for example, was an issue relative to your evaluation of Dr. Weber?

A. Correct.

Q. Because it wasn't an issue at that time?

A. It wasn't an issue and there weren't any -- you know, there was almost a year in between the two evaluations that I did. So, that evaluation happened before -- his evaluation happened after my first evaluation, but he certainly would not have known the concerns that we had in the interim, between the first and section evaluation.

Q. Right. And your second evaluation came after his evaluation and his report?

A. Correct.

Q. In your first report, Government Exhibit 2, you don't talk about cognitive disorders?

A. No.

Q. So, that's also not in your report. The only thing in your first report is a delusional disorder mixed type, correct?

A. Correct.

Q. All right. Nevertheless, Dr. Antonius, based on the subjective complaints of the defendant about memory as well

as a reference in an email to an early onset of dementia, takes it upon himself to administer neuropsychological testing, correct?

A. Correct.

Q. Neuropsychological testing is valid for the diagnosing of cognitive disorders, correct?

A. It is a tool used to diagnose cognitive disorders.

Q. For example, neuropsychological testing wouldn't be used to diagnose a delusional disorder, would it?

A. No.

Q. Okay. And although you take issue with the testing that Dr. Antonius performed, nowhere in your addendum do you suggest any other tests that should have been performed, do you?

A. No. I don't suggest any other specific tests.

Q. So, you take the position that his testing was not done in a way that would have valid results, but you don't suggest there are tests that could be performed to give you that information?

A. Oh, there are.

Q. But you --

A. But that's not something that I would do.

Q. You wouldn't do it. And you also don't say anything about further testing for -- further neuropsychological testing should be done?

A. I didn't say that, but it should.
Q. But it should?
A. Yes.
Q. All right. So -- and now, I am focusing on your addendum, which is Government Exhibit 3. So, despite no evidence of abnormalities relative to cognitive disorders on the MRI, despite no finding in the neuropsychological testing that Dr. Antonius performed, you conclude in your addendum that the defendant now is suffering from an unspecified cognitive disorder, correct?
A. Correct.
Q. And in terms of the MRI, just to go back to that for a moment, you are linking the cognitive disorders to the manifestation of two things; the defendant's sovereign citizen beliefs, that's one, right?
A. Not just holding the beliefs, but the fact that he was vulnerable and accepted these beliefs as a reality.
Q. So, his -- would it be more correct to say, to his adherence to the ideology of sovereign citizens?
A. Whatever vulnerability or predisposition he developed to latch on to that ideology, not the idealogy itself. I am not calling that specifically delusional. And from a cognitive standpoint, what I am worried about is what precipitates somebody to latch on to that kind of belief system when there's no history of having that tendency.

Q. And in your experience, do sovereign citizens or people who latch on to that ideology, do they usually have a predisposition to strange idealogical beliefs?

A. Well, you asked in my experience and my experience, personal experience, is very limited and the literature on this is very limited. So. There is no large fund of data that goes into whether there's a certain predisposition, although it is known that some individuals that are sovereign citizens have a tendency to believe conspiracy theories and other things like that.

Q. Yes. Because some of those things go hand in hand, correct?

A. They do.

Q. And is it fair to say that the research, though limited, had found that relative to sovereign citizens, that it's sort of a gradual indoctrination; that they buy into one belief, maybe the one about being a non-resident alien and then they do more research and then they think oh, well, I don't need a driver's license and then it continues, so it's a continuum of beliefs that sovereign citizens follow?

A. I think the cases vary wildly. There's no one typical path.

Q. But you would agree that sovereign citizens hold a myriad of different beliefs and not all of them hold the same beliefs?

A. Correct.
Q. Right. And then, it's not unusual for a person who latches on to sovereign citizens to begin by manifesting, for example, an issue regarding jurisdiction of the court and then to proceed to another manifestation which would be that the Thirteenth Amendment and the Sixteenth Amendment are not valid because of some Archaic reading the of the law?
A. I am sure there's cases where that happened.
Q. Right. And Mr. Weber is one of those cases where he starts out believing he is a non-resident alien and then he latches on to more and more sovereign citizen beliefs, correct?
A. Correct.
Q. So, in terms of Mr. Weber's sovereign citizen beliefs, would you agree that -- to be conservative, he manifested -- he began to manifest those beliefs as early as 2009? And if you want, I can explain why I am giving you that date.
A. Okay.
Q. So, 2006, he hears on the radio about why you don't have to pay taxes.
A. Correct.
Q. Do you recall that year?
A. Yes, he pinpointed that.
Q. But in terms of taking action on those beliefs, we have 2009 as the year in which he files the 2006 and 2007 non-

resident alien returns.
A. Okay.
Q. So, that's in 2009. So, if we used 2009 as a clear manifestation that he had adopted sovereign citizen beliefs, would you agree that those sovereign citizen beliefs continued from 2009 until the present?
A. Yes.
Q. And in terms of Dr. Weber's somatic complaints, for example, memory issues, dizziness, the mercury poisoning, the router issue, which was more recent, I believe.
A. Pancreatic damage due to the radiation.
Q. Due to the router, right. But those somatic complaints, they began several years before you ordered the MRI of the brain, correct?
A. Yes.
Q. Okay. And yet -- so, we have these sovereign citizen beliefs and the somatic complaints, all of which precede the conducting of the MRI by a number of years and yet, there's no evidence on the MRI of any cognitive issue?
A. Well, there's no obvious reason. There's only a limited number of things you are going to be able to see on imaging, but none of those were --
Q. But you diagnosed him with a cognitive disorder, correct?
A. Correct.
Q. And it's not based on sovereign citizen beliefs that

existed for a number of years before the MRI? I mean, there would be some -- if the basis of the cognitive disorder is the belief -- his personal beliefs relative to sovereign citizenry and his personal beliefs as to his somatic and health-related issues, then nothing physiological changed from 2009 to 2016 when he had an MRI and there's still no evidence on the MRI?

A. So, we don't know that. I mean, he has not had a real medical workup in years. So, you may not see something on neuro images. There may be other things that are causing these cognitive problems. We don't know. He had not gone to a regular doctor or had a regular medical workup.

Q. But, again, we're talking about cognitive disorders, we're talking about diagnostic tools that include an MRI and we're talking about another diagnostic tool which is neuropsychological testing, correct?

A. Correct.

Q. Those are the tools that are used to determine whether somebody has a neurocognitive disorder?

A. Well -- and it's also about clinical history and the nature of the progression of the symptoms. You don't always see cognitive problems on an MRI. Psychiatric diseases in general are pretty low as far as being obvious on imaging, in general. You don't see mental illness, you don't see cognitive illness in a picture. We're not there yet.

Q. And when you diagnosed him with a cognitive disorder, you diagnosed it as an unspecified cognitive disorder, correct?
A. Correct.
Q. And that's because it does not fit into any category of cognitive disorders that's typically set forth in the DSM, correct?
A. It's not clean cut.
Q. Because there is no evidence in an MRI?
A. But you wouldn't say that somebody doesn't have a cognitive disorder just because they have a normal MRI. You wouldn't say that.
Q. But most cognitive disorders are things like dementia and Alzheimer's and whatever other diseases you mentioned that actually do have changes in the brain?
A. Well, some of them do. Some of them are developmental disorders and don't really have any obvious imaging changes at all. People are -- you know, have cognitive difficulties. They are intellectually what used to be called mental retardation. But intellectual functioning, you can't see that on a MRI or a CT scan. You don't say that there's nothing wrong with them.
Q. So, then presumably, the neuropsychological testing would exhibit some sort of sign of a cognitive weakness or a cognitive disorder?
A. Not necessarily.

Q. Okay. So, there's no way to know whether somebody has a cognitive disorder?

A. I look at the history and the progression of somebody's behavior and thought process and that history is given a lot of weight in this case.

Q. All right. But we talked a little bit about the history and in terms of the part of the history that you thought was important was that he had no motivation for latching on to sovereign citizen beliefs and it turns out that he did have a motivation because the IRS was focused on him beginning in 2004.

A. Okay. I have already said that I didn't have any information relating to that, so I can't comment on that.

Q. You can't comment on that because you don't have information, but it is relevant to whether or not your understanding of the manifestation of this ideology in him is correct?

A. It could be.

MR. COMERFORD: Objection. If I could just note our objection that the only evidence as to Mr. Weber's taxation, you know, whether he filed stuff or didn't prior to 2006, 2005, 2004, 2003 is what's present in Ms. Kresse's question, and it's -- to the extent she's assuming facts that aren't in evidence in making that question, we'd object to that, Judge.

THE COURT: Overruled.

MS. KRESSE: Thank you, Judge.

BY MS. KRESSE:

Q. And you talked about, I believe on your direct examination, that Mr. Weber began adopting sovereign citizen beliefs over time. It was gradual, it was not immediate. Do you recall that?

A. Yes.

Q. Isn't it true that in the literature and in particular the Parker article that talks about competency and sovereign citizens that a display of sovereign citizen beliefs over time, gradual, not immediate, means -- is indicative of it not being a psychological disorder? In other words -- I'll just ask that question.

A. Can you -- are you looking at a specific part of that article?

Q. You have read the Parker article, correct?

A. Yes.

Q. I just want to take the time to find it in this article, but what I will do is direct your attention to the talk that you gave in Colorado in October of 2017.

A. Yes.

Q. And the audio of that has been marked as Government Exhibit 4, correct?

A. I don't know, but, yes it's been marked.

MR. COMERFORD: That's the right number. Yes.

MS. KRESSE: All right.

BY MS. KRESSE:

Q. One of the speakers at that -- what would you call it? Would you call it a symposium? Would you call it a group discussion?

A. It was labelled a panel.

Q. A panel. One of the speakers at the panel was Dr. Parker, the author of Government Exhibit 4, which is "Competence to Stand Trial Evaluations of Sovereign Citizens: A Case Series and Primer of Odd Political and Legal Beliefs". Correct?

A. Right.

Q. And do you recall -- and were you there -- were you present for Dr. Parker's portion of the presentation?

A. Of course.

Q. And do you recall that he described the adoption of individuals of sovereign citizen beliefs is akin to a religious conversion?

A. He may have said something like that.

Q. But you don't recall it specifically?

A. I don't know that specific language, but he may have said something along those lines.

Q. Do you recall that he said that once a person adopts sovereign citizen beliefs, it becomes their lifestyle?

A. Yes.

Q. Do you recall that he said that each sovereign citizen is uniquely different?

A. Yes.

Q. Okay. And that each individual sovereign citizen presents with his or her own assembly of the beliefs that make sense to him or her?

A. Yes.

Q. And in general, when you are talking about delusional disorders, is a delusional disorder something that comes on quickly?

A. It can. It does not necessarily have to be, you know, one day or one week. It can certainly happen gradually over time. And it's hard to know because individuals with delusional disorder often are under the radar for a long period of time before coming to anybody's attention. So, it's really not clear that all of those are necessarily quick onset.

Q. Okay. So, delusional disorder can happen over time?

A. They can.

Q. Now, you interviewed -- re-interviewed the defendant on August 22nd of 2017. Do you recall that?

A. Yes.

Q. And at that time, you spent two and a half hours with him?

A. Yes.

Q. Now, your report was not submitted until -- submitted to the defense until November of 2017?
A. Correct.
Q. And that was -- and so, the date on that report and that's Government Exhibit 3, is November 2nd of 2017, just so you have that in front of you?
A. Yes.
Q. So, you interview Dr. Weber for a second time on August 22, 2017 and don't issue the report until after you participate in the panel at the conference in October of 2017, correct?
A. Yes.
Q. And so, you had the benefit in preparing your addendum of the various presentations during that panel discussions?
A. Well, I had already had ongoing discussions with the panel presenters for months leading up to this. The panel presentations are put together at least six months in advance as far as submitting a topic and preparing materials and because I was the one that proposed the panel presentation, I reached out to the other presenters to discuss what we would include, which included putting this particular case in as a very specific example to discuss. So, I -- there was nothing new from that panel in October if -- that I didn't already know.
Q. Okay. And again, trying to understand the basis for your

opinion that Dr. Weber falls outside of the norm of sovereign citizens. If you go to the Parker article, Government 4 and specifically page 346 of that article, in the left column, do you see the heading "Discussion"?

A. Yes.

Q. And then do you see, it's about almost halfway down in that first paragraph under the heading "Discussion", it reads, "it therefore appears likely that there is no typical sovereign citizen." And you agreed with that?

A. Correct.

Q. Okay.

THE COURT: Where are you reading from?

MS. KRESSE: Page 346 of the article, Judge.

THE COURT: Right.

MS. KRESSE: And then under the heading on the left-hand column, do you see "Discussion" in bold?

THE COURT: I'm there.

MS. KRESSE: It is the third full sentence beginning "It therefore appears".

THE COURT: Oh, okay. I got you.

BY MS. KRESSE:

Q. And then, with a semicolon, it says, "rather there is a core group of beliefs that are adopted and adapted by each sovereign citizen." And you are aware that Dr. Parker used as a basis for this article nine case studies that he

personally performed, right?
A. Correct.
Q. And he goes on to write, "Within the case series, all but one of the sovereign citizen defendants referred to for competence evaluations were male, reasonably well-educated, most were middle-aged, which is consistent with what little is known about sovereign citizens. None of them had a known history of psychosis. And of the six who cooperated with the evaluation, most appeared to have a relatively normal upbringing. None showed any significant cognitive disorders on mental status examinations. From a clinical perspective, the defendants in this group were unremarkable." Doesn't that sound just like Mr. Weber?
A. It's very similar to Dr. Weber, yes.
Q. So, you participated in this conference in October of 2017, and then you submit the report and it's dated November 2nd, 2017. And again, this is Government Exhibit 3, correct?
A. Correct.
Q. And in the addendum, you change your diagnosis from your first report, correct?
A. Yes.
Q. And you change your diagnosis to a cognitive disorder unspecified?
A. Correct.
Q. And is that because you realized that, in fact,

Mr. Weber's sovereign citizen beliefs are not delusional for purposes of that diagnosis?

A. The beliefs regarding the sovereign citizenship are not necessarily delusional; although, I do believe that some of the beliefs that he has surrounding that are so idiosyncratic and specific to him that they could be called delusional; specifically the family history and the family lineage that he talks about, but I do still believe there is delusional beliefs here.

Q. In the sovereign citizen arena?

A. In the sovereign citizen arena as well as somatic preoccupation.

Q. And going back to the one example of sovereign citizen belief that you think is idiosyncratic, he talked about tracing the lineage, correct?

A. Mm-hmm.

Q. But isn't that a very typical sovereign citizen analysis where they study and they want to be able to trace themselves back as far as possible so that they can show that they are a sovereign citizen and not a United States citizen?

A. It is, but in his case, he was very specific about where he was getting that lineage. It seemed a bit disorganized the way he was presenting it.

Q. Is that because you didn't understand what he was saying in terms of how he traced it?

A. You could understand what he was saying, you just couldn't logically connect where he was going with it.
Q. But --
A. It was difficult to understand, so there was some disorganization in how he approached that.
Q. Isn't that the same as all sovereign citizen beliefs; like the idea that although you are born and raised in Buffalo, New York, you are not a citizen of the United States? I mean, that does not make sense.
A. Right. I mean, it's definitely a broadly-held theme within the sovereign citizen culture.
Q. I'm sorry. I don't --
A. It's a broadly-held theme belief that that culture has.
Q. Right, the lineage issue?
A. Right.
Q. And being able to trace yourself back to as far back as possible, the Revolution, if you can?
A. Right.
Q. And some sovereign citizens go all the way back and they talk about Britain and what their relationship to Britain before the Revolution was, correct?
A. Yes.
Q. Okay. Now, in your addendum, you conclude that the defendant is not competent to represent himself at trial, correct?

A. Correct.
Q. But you don't specifically opine on the issue of whether he is competent to stand trial, do you?
A. Well, here's the issue. The question of competency came up after the first report was submitted. The question was, is he competent to proceed with trial. There was a lot of back and forth as to whether Dr. Weber was being cooperative with counsel or not and whether he would allow counsel to do certain things or not and opined that my competency opinion would be conditional based upon whether he would accept certain recommendations of counsel. So --
Q. And where was that conditional opinion?
A. In the second report.
Q. In the second report?
A. In the second report, I addressed that.
Q. Right. So, if we go to Government Exhibit 3 and I believe maybe page 8.
A. It is on page 11, it starts. Second paragraph.
Q. Yes. Okay. And then, that's the sentence that reads -- so, again, Your Honor, we're on Government Exhibit 3, page 11, the second full paragraph beginning, "With regard to" and I can read that for you. "With regard to assisting in his defense, I opined that his competency was conditional depending on whether or not he would accept the introduction of a mental health diagnosis as a possible defense." That's

what you are referring to, right?
A. Correct.
Q. So, where had you opined that before?
A. Well, I had discussions with counsel about that. They did not want a competency opinion at the time of the first report. That report was merely for diagnostic opinions. So, we had discussions between the time the first report was prepared and the second report was prepared as the case evolved as to whether the behavior of Dr. Weber was being competent or not. And competency is fluid depending on what's happening, so that's where the conditional comes.
Q. So, to be clear, in your first report, which is Government Exhibit 2, there's no discussion at all about Mr. Weber's competency to stand trial or to represent himself, correct?
A. Correct, because they did not want that opinion at that point.
Q. You were not asked to do that?
A. I was not asked to put that opinion in a report.
Q. Okay. Did you, in fact, make an assessment at that time of Mr. Weber's competence to stand trial?
A. I asked questions that would be relevant to that assessment. Yes, I did.
Q. And is it fair to say that based on the questions that you asked that are relevant to that assessment that -- as of

your first report, you would have found Mr. Weber competent to stand trial?
A. It was conditional based on whether he would allow counsel to introduce certain evidence that would be favorable to him and whether he would contemplate certain scenarios that might be favorable to him. And he was ambivalent and refused to discuss certain things that would confirm or deny whether he was truly on board with those things.
Q. And is that based on subsequent information you obtained from defense counsel relative to his dealings with the defendant?
A. In part, yes.
Q. Okay. Because if we go to Government Exhibit 2, which is your October 30th, 2016 forensic examination and specifically, I'll direct your attention to page 8.
THE COURT: This is exhibit -- which exhibit?
MS. KRESSE: Exhibit 2, page 8. And I am just going to pick out some things here that are relevant to competency issues.
BY MS. KRESSE:
Q. You found under "Mental Status Examination", which is at the bottom of page 8, that Dr. Weber's thoughts were well-organized, correct?
A. In a grammatical sense.
Q. What does that mean, in a grammatical sense?

A. Well, I could understand the words and the sentences that he was saying, but they did not logically make a lot of sense sometimes.
Q. Right, because sovereign citizen beliefs don't really make sense to the rest of us, do they?
A. Well, not only the sovereign citizen, but also the health issues and the workup and the stuff that he was dealing with from a medical standpoint was pretty bizarre.
Q. And that's his belief that he had mercury poisoning, for example?
A. Well, at that point, the mercury poisoning had taken a backseat. At that point, he was talking about pancreatic dysfunction and carbohydrates being metabolized.
Q. Well, that happened in the second assessment, didn't it?
A. Correct.
Q. But in the first assessment when we're talking about --
A. Oh, I'm sorry. You're talking about the first assessment. At that point, it would have been the mercury poisoning and the reflex muscle testing and the bentonite clay and other types of things he was doing at that point.
Q. And in that regard, would you not agree that there are many people in this country who subscribe to non-medical, non-traditional treatments for various real and imagined physical ailments?
A. There are many people, but they are not dentists who are

scientifically trained and don't have a history of believing in this. This is a big departure for somebody who should know better.

Q. So, in your opinion, a dentist should be absolutely like -- let me phrase this better. In your opinion, no dentist or no doctor could subscribe to non-traditional medical treatment?

A. I'm not saying that.

Q. It is what you said.

A. The things he is subscribing to are so far out there as having any scientific validity that it would absolutely raise questions as to why somebody would believe that.

Q. But there is such a thing as mercury poisoning, isn't there, because you asked on the MRI that they have a protocol to identify that?

A. There were a couple of reasons for that. Did I expect them to find mercury poisoning on the MRI? No. I was interested to see what Dr. Weber would do with that information, whether he would let that go based on evidence that there wasn't evidence of mercury poisoning in the MRI, number one.

And number two, if there was a rare -- you know, the rare bird, the zebra and it did have mercury poisoning, then we would have some confirmation of that. Obviously, I didn't expect that to be the case. I was more interested to see how

Mr. Weber would react to the no findings of mercury poisoning on the MRI that he was so convinced of. He let that go and put it on the backseat, but replaced that with other bizarre somatic beliefs that have no basis in reality that we know of either.

Q. But you understand the ramification of a statement that a dentist or somebody with some sort of medical training couldn't possibly believe that he or she had mercury poisoning, I mean, how did you prove that?

A. Well, if that were truly an occupational hazard to dentistry, as Dr. Weber believes it was and that's how he acquired it, we would have an epidemic of mercury poisoning. That doesn't exist.

Q. So, smart people who should know better should not have any delusions about their health? That's what you are saying?

A. No. I am saying that they are vulnerable to developing delusions. I mean, he is not immune to developing some kind of cognitive disorder or psychiatric disorder that has delusions as part of the symptoms. He's not immune to that because he's high functioning and intelligent to begin with. I'm saying it is very concerning and unusual that somebody with his background starts believing this without seriously questioning it.

Q. So, a regular educated, smart person who is not medically

trained, if they believe in some sort of homeopathic remedy for some make-believe ailment, that's not delusional. But as soon as you have somebody who has some medical training and should know better, because of their medical training, that person is delusional?

A. I think it depends on how they understand that and how much impact it is having on their life.

Q. And what impact did that have on his life? He said he was feeling better with his homeopathic remedies, didn't he?

A. He made some other changes that might explain why he was feeling better, or he may have had the placebo effect from the homeopathic remedy that he was using.

Q. But that's not relevant though, is it? The bottom line is he felt better. He felt that the steps that he was taking made him feel better, correct?

A. He said so.

Q. And that's what he reported to you?

A. He reported that.

Q. Okay. And one of the things that -- in terms of somatic complaints, one of the things that becomes relevant in terms of whether those somatic complaints are delusional or not is what impact that actually have on your life, correct?

A. Correct.

Q. Do they impair your ability to function, correct?

A. Correct.

Q. And Dr. Weber's somatic complaints do not impact his life because he feels better, he does not see them as an issue?
A. They impacted his life plenty. In fact, right after he had the MRI, he developed new somatic complaints for several weeks after, complaining of things he attributed to the MRI that could not possibly be introduced by the MRI and he went back to the naturopathic doctor to get yet another supplement to treat these vague complaints and then got diagnosed with carbohydrate dysfunction due to his pancreas not working.
Q. Yes, but then he took algae and he felt better?
A. He says.
Q. Well, that's what it's about, his subjective statements to you; that's how you analyze whether somebody is delusional in their somatic complaints, you have to go by what they tell you, correct?
A. I'm saying his concern about the pancreatic dysfunction and carbohydrate metabolism is gone. He feels better. He still has that belief.
Q. But let's look at the totality of his somatic complaints. The purpose of this proceeding is to determine -- is to determine whether Mr. Weber is competent, first of all, to stand trial, correct?
A. Correct.
Q. And there is nothing in his somatic complaints for which he feels better that rendered him not competent to stand

trial, correct?
A. No, not specific, no.
Q. No. And in terms of his sovereign citizen beliefs, there is nothing about that set of ideological beliefs that he puts in papers and that he wants to advocate in front of this Court that render him not competent to stand trial, correct?
A. Well, I think that's up for debate. He certainly plans to draw on that. If this proceeds eventually, he certainly plans to draw on those concepts as part of his defense, which is problematic.
Q. Well, it's problematic in your opinion because you see it as a losing argument, correct?
A. It's a losing argument. It also prevents him from seeing other possible avenues of working his case or defending himself.
Q. And you talk about the good faith defense?
A. I don't know that I did, but in which report?
Q. In your report and you also mentioned a few moments ago about your conditional competency finding, that it was conditioned on whether or not he would allow the mental issues to be formulated in support of a good faith defense?
A. Correct.
Q. Do you recall that?
A. Yes.
Q. Okay. Because I don't want to put words in your mouth.

So, are you aware that a defendant can present a good faith defense regardless of whether he or she has mental issues?
A. Yes.
Q. Okay. So, Mr. Weber's decision as set forth in your report that he does not want to talk about his mental health because he does not think he has a problem, does not mean that he will be unable to argue a good faith defense in front of the jury, does it?
A. I don't know. I assume that's more of a legal question between him and his attorney, whether it has merit or not.
Q. But your decision regarding competence was based on the fact that you thought that he would not be able to make that defense?
A. In part. There were other things that would be problematic that would condition his competency too, but certainly that was a big part of it.
Q. If we look at your report, Government Exhibit 3, the only thing you say here and this is the paragraph beginning, "With regard to assisting in his defense", you said, "I had opined that his competency was conditional depending on whether or not he would accept the introduction of mental health diagnosis as a possible defense." That's the only thing that you say?
A. Well, the other thing that was in the first paragraph I address is a few other issues that could be relevant to the

competency as well. That includes issues with plea bargaining and issues about providing information that he proposes his attorney use and wouldn't really go into detail as to what it was, but eluded to the fact that if his attorney refused to use the information that he wanted to use that he would ask the attorney to go off the case.

Q. But, again, that goes to issue number two, which is whether or not he is competent to represent himself, correct?

A. Well, it goes to assisting in your defense, but if you are not competent generally, I think the -- you know, then competency pro se is a higher bar, so, if he's not competent to work with an attorney, then he is not competent to represent himself, either.

Q. Well, is that necessarily the case? Well, if you are not competent to stand trial, then you're not competent to stand trial?

A. Correct.

Q. And in fact, if somebody is found not competent to stand trial, they end up going into a hospital, essentially incarcerated in a mental facility for a period of up to four months, correct?

A. Correct.

Q. And is Mr. Weber somebody who would be benefitted from some sort of treatment, whether it's medicinal or otherwise, that would somehow -- I can't think of the right word, not

reform him, but restore him to mental competency?
A. It is possible. I do think that's it's possible that a trial of an antipsychotic may be beneficial. We don't know because Dr. Weber has never taken any of those medications. Because this has been going on for so many years, that's usually a poor prognostic sign as far as restoring somebody, is you are treating delusional beliefs, but it's possible, and that's really the -- the only way to know is to try.
Q. Right. So, it is your opinion that -- in believing that -- in your medical opinion that he is not competent to stand trial, that he should, in fact, be placed someplace, in a mental facility, where he can be evaluated and where treatment could be imposed on him?
A. Right. And just to clarify, I think that, again, a more thorough medical workup needs to be done, because he has not seen a regular physician. He's not had a thorough workup of -- for cognitive -- for medical reasons that could cause cognitive impairment. He has not had any record of this being done. I think it's worthwhile having more thorough neuropsychological testing and possibly a trial of an antipsychotic medication.
Q. Okay. You would agree that the standard for determining whether somebody is competent to stand trial is pretty low, isn't it?
A. It is. It's a lower threshold.

Q. Right. And it's a pretty low threshold in terms of what has to be demonstrated, correct?
A. Yes.
Q. So, it is whether the defendant has a rational as well as factual understanding of the proceedings against him?
A. Correct.
Q. And whether the defendant has sufficient presentability to consult with an attorney with a reasonable degree of rational understanding. That's the second component, correct?
A. Correct.
Q. And you talked a little bit about the ability to consult with an attorney, but clearly even in your observations here over the course of the last two days of this hearing, that Mr. Weber has been able to consult with his attorney and work with his attorney, Mr. Comerford, relative to and in conjunction with this hearing?
A. Well, I don't know. I think you'd have to ask Mr. Comerford that. I don't know what all has been said or what all Dr. Weber wishes Mr. Comerford to bring forth. My -- in my conversations with Mr. Comerford, Mr. Comerford was not optimistic that anything that Dr. Weber wanted to present was going to be particularly helpful in his defense.
Q. Well, that may be because his legal beliefs are not beliefs that anybody else except sovereign citizens adhere

to, right?
A. It is true, but it's also this inability to really take a look at what other options there are; again, this ability to shift cognitively to a different strategy that's really missing.
Q. Well, during the course of this hearing -- and obviously, you were not here for most of the proceedings on Friday, but certainly you have been here today and you've been able to observe Mr. Weber here -- he has not been disruptive in any way to the Court or to the proceedings, correct?
A. Correct.
Q. He's allowed Mr. Comerford to ask you questions on direct examination, correct?
A. Correct.
Q. He has allowed -- without any sort of issues or outbursts or demonstrations of any kind, he's allowed me to ask questions in cross-examination of you, correct?
A. Correct.
Q. And so this is demonstrative, is it not, of a person who is able at this moment to work with his attorney in this context?
A. I don't think that what's only happened today is the only thing that needs to be considered.
Q. Well, as you said, competency is fluid?
A. It is.

Q. And one of the considerations -- and now we're jumping ahead a little bit. One of the considerations in determining if somebody is competent to represent them self, which in your opinion Mr. Weber is not, but one of the considerations is their ability to sit in a courtroom without disrupting the proceedings, correct?

A. That's one consideration.

Q. But it is a consideration?

A. Sure.

Q. Okay. And Mr. Weber has done nothing but sit there appropriately and listen to the proceedings in this case for hours, correct?

A. Correct.

Q. But going back to just competency to stand trial, because if we don't get past that, then it does not matter whether he's competent to represent himself. In your first -- I'm sorry -- in your addendum, which is Government Exhibit 3, at the top of the page 11 -- this is a paragraph that you referred to a few moments ago -- you talked about during the first evaluation how Mr. Weber had -- Dr. Weber had demonstrated the rational and factual understanding of his charges, correct?

A. A factual understanding of his charges. Rational -- yes, at the beginning he did; he did, yes.

Q. Because I am actually just reading from your report.

A. Yes.
Q. Okay. So, what you said is, Dr. Weber demonstrated a rational and factual understanding of his charges. Okay. And you set forth what he says about what the government's point of view is, correct?
A. Correct.
Q. And then you set forth, he stated that the charges are serous. So, he understands the seriousness of the charges?
A. Yes.
Q. He understands that he could be sent to prison for up to two and a half years if found guilty, correct?
A. Yes.
Q. And all of these things are relevant to the determination of whether he is competent to stand trial?
A. Yes, they are.
Q. And you are not suggesting that sitting here today Mr. Weber suddenly doesn't know how serious this offense is, does he? I mean, that has not changed?
A. Not that I know of. Not since I saw him last.
Q. So, he still understands what the charges are against him?
A. Right. The factual understanding has never been an issue.
Q. One of the other factors and you address it in your report, is that Dr. Weber understood the roles of a defense

attorney, the United States Attorney, the Judge, jury and witnesses, correct?
A. Yes.
Q. And that's important to whether he is competent to stand trial, correct?
A. It is.
Q. And has he -- based on your subsequent interview of him for two and a half hours, did he give you any indication that he no longer understands the roles of defense attorneys, the Court, the prosecution?
A. He understands the roles, but he no longer believes that he is able to use the services of the public defender.
Q. I know --
A. So, he's shifted a little bit there.
Q. I understand that, but that's conflating the issue. That's talking about then whether or not he can represent himself. The only thing that I asked is, it's something that is very relevant to whether somebody is competent to stand trial. It's the factor that you, yourself, set forth in your report, "He understands the role of the defense attorney, the United States Attorney, the Judge, the jury and witnesses", correct?
A. Correct.
Q. Okay. Now, what you are getting to is that now although he understands what the role of the defense attorney is, he

is choosing or wants to choose not to avail himself of those services, correct?
A. That is correct. That is correct.
Q. In terms of -- and you address the whole issue, the second part of competency to stand trial, of assisting in his defense and you say in that same paragraph, "With regard to assisting in his defense, he understands the concept of a plea bargain."
A. Yes.
Q. And granted -- then, you go on to say how there is information and defense-oriented arguments that he wants to be able to make and he realizes that his defense counsel is not or may not be willing to make those arguments, correct? He understands that?
A. Yes.
Q. So, that demonstrates an understanding on his part that his legal arguments are not arguments that are accepted by the Court and by counsel, correct?
A. He demonstrates an understanding that historically, those arguments have not succeeded, but he was absolutely convinced that in his particular case they would succeed.
Q. Right, because he believes that if he's allowed to make the arguments, that he'll be successful?
A. He does believe that.
Q. He understands that historically those arguments have not

been winners?
A. He says he understands that, yes.
Q. Did you --
A. Well, he's done the research and he agreed when I confronted him with that, yes.
THE COURT: Let's take a 15-minute break. Court will be recess.
THE CLERK: All rise.
(A recess was taken from 2:39 to 2:55 p.m.)
THE CLERK: All rise. You may be seated.
MS. KRESSE: Thank you, Judge.
BY MS. KRESSE:
Q. Dr. Cervantes, in talking about your concerns regarding Dr. Weber's ability to stand trial and represent himself, you talk about the switch in his thinking away from using the public defender. Do you recall the question or do you want me to re-ask it, the switch?
A. The switch from wanting to work with a public defender?
Q. Yes.
A. Yes.
Q. And so, we were talking about that before the break.
THE COURT: Keep your voice up, please.
MS. KRESSE: I will, Judge. Thank you.
BY MS. KRESSE:
Q. And in fact, in your addendum, which is Government

Exhibit 3, there's a whole section of your opinion regarding competency about the decision to -- or desire to represent himself going forward to trial, correct?
A. Correct.
Q. Okay. Now, the notion of not using a public defender, are you aware that that in and of itself is sort of a typical sovereign citizen belief?
A. It is. And it's generally -- even if you are not a sovereign citizen, it's not an uncommon thing that comes up.
Q. The desire to represent yourself?
A. Represent yourself, yes; pro se, yes.
Q. And for a sovereign citizen and typical of Dr. Weber because he does not believe he's a federal citizen, he does not believe that a federal public defender is allowed to represent him going forward, correct?
A. Correct.
Q. So, his desire to represent is kind of twofold. One, it's sort of a manifestation of his beliefs about the federal government and also a desire on his part because he thinks he can do it better than his attorney?
A. Correct.
Q. Okay. And in terms of the second report, if you go to Government Exhibit 3, the bottom of page 12, as it goes on to page 13, is it fair to say that that last paragraph beginning with the word "therefore" is your opinion that you stated in

this report?
A. Yes, the word "opinion" is duplicated, but, yes.
Q. Okay. And if you can read that paragraph, please?
A. Yes. "It is my opinion that Dr. Weber is presently suffering from a metal disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him and to assist properly in his defense pursuant to 18 U.S.C. 4241(b).
Q. Correct. And that's the standard that you use when you analyze somebody forensically relative to competence, correct?
A. Yes.
Q. But in terms of that opinion, we just went through the fact that as to the first part of the analysis, the consequences of the proceeding, that Dr. Weber does understand the consequences of the proceeding; that's there's no evidence that that has changed since your first evaluation?
A. Well, no. I would argue that he's believes that the consequence is going to be a favorable outcome to him, if things go the way he believes they should go.
Q. True, but he understands the consequences if they don't, that he faces two and a half years in jail, according to him?
A. He can't even contemplate that it's not going to go his

way at this point. He cannot incorporate that possibility into his thinking right now. He believes he is going to succeed if he is allowed to proceed the way he wishes to proceed, no two ways about it.

Q. Isn't that the case of every sovereign citizen who has these beliefs that they vociferously believe?

A. Well, I don't know about every single sovereign citizen. The other one that I evaluated recently certainly could look at other options other than representing himself.

Q. But, again, other than representing himself, so you are talking about representation and not about competence to stand trial?

A. Correct. That person could also contemplate things not having the outcome he desired, things not going his way. Dr. Weber cannot envision any other outcome other than him being successful.

Q. Right, but he understands that if he's not successful --

A. He does not. He doesn't think that he's not going to be successful at this point.

Q. But if he understood in -- when -- your first evaluation in 2016, if he understood then that -- what the charges were and what the penalty was, there's no reason for him to believe that the penalties and the crimes are any different than they were before?

A. He does not believe that the penalties for those crimes

are different per se. He just does not believe it is going to be a factor in his case at all.

Q. Well, that may be, but the relevant analysis is whether he understands the charges against him and he does understand the charges. He thinks he can beat them, but he understands the charges?

A. He understands the charges. He believes he can beat them and he does not see any other possible outcome, which is problematic.

THE COURT: What do you mean when you say "beat them"; that he can beat the charges?

THE WITNESS: That he's going to be acquitted, that he will not be found guilty of any of these charges.

THE COURT: Does he understand that he'll have to follow the rules, not as he would like the rules to be, but the way the Court must interpret them fairly and impartially under the rules of evidence that the Court must apply during the trial?

THE WITNESS: I know that that's the way it's supposed to be --

THE COURT: Well, it is not the way it supposed to be. It's the way it's going to be.

THE WITNESS: Right, but he does not believe that -- he has a vision of how he thinks it's going to go if he is allowed to present what he wants to present and he believes

that if he's prevented from doing that because there's objection or the Court does not allow something to be entered, that his method of resolving that would be to appeal that to the Supreme Court. That's his answer to -- if you pose the hypothetical that there might be a barrier to him introducing something that he thinks is relevant, he's going to kick it up to the Supreme Court. Period.

THE COURT: Okay.

BY MS. KRESSE:

Q. But the things that the Judge is referring to are the only things that are relevant to determining whether this defendant is competent to stand trial. He -- forget about what he thinks is his success rate and about how good he will be at presenting his case. Does he understand that he is in federal court?

A. I think so. I haven't talked to him recently but yes, he understands he's in federal court.

Q. He knows where he is, right?

A. He knows where he is.

Q. I mean, there is no suggestion that this individual is not oriented to place and time?

A. No, no. No, I am not saying that.

Q. And he understands that this is a federal court?

A. Yes.

Q. And that tax crimes are federal offenses, correct?

A. I think he theoretically knows that.
Q. That's all --
THE COURT: Does he understand that he may be convicted, that's it's going to be ultimately up to the jury despite his beliefs?
THE WITNESS: When I last spoke with him, he did not believe that be could convicted. He believes that his argument has to be successful and would be successful.
BY MS. KRESSE:
Q. Well, he also believes that this case is going to -- this Court is going to throw out his case before it even gets to the jury, isn't that right? He didn't make that argument to you? He didn't tell you about that?
A. Early on in one of the first two evaluations, he mentioned that he thought that's what should happen.
Q. Did he tell you that he went about a proceeding in state court to change his name from capital Charles Weber to lower case Charles Weber?
A. He eluded to doing something like that and I found out that that had actually happened because he had the papers hand delivered to my home address on a Saturday morning in person -- well, not him, but some person actually handed them to me in person.
Q. So, besides that, the bottom line is that you are aware that he proceeded to change his name from capital letters to

small letters, correct?

A. Correct.

Q. And you know that that's typical sovereign citizen about capital letters indicative of a corporation versus the lower case letters, correct?

A. Correct.

Q. And but you're saying that Mr. Weber, when you talked to him in August of 2017, did not tell you that based on his name change that this Court, this federal court, would no longer be able to exercise any jurisdiction over him because he had remedied any issue about his citizenship?

THE COURT: What do you mean his name change?

MS. KRESSE: Mr. Weber, at some point during the summer, submitted an application to State Supreme Court asking for a name change and it was a name change from Charles Weber in capital letters to Charles Weber in lower case letters and for some reason, that petition or motion, whatever it was termed, was granted.

THE COURT: All right.

BY MS. KRESSE:

Q. So, what I am getting at, Dr. Cervantes, is that Dr. Weber is stubborn about his ability to be successful in this case, correct?

A. Correct.

Q. But you don't know whether it's because he feels he can

convince the jury of that or because he has some legal argument that's going to cause this Judge to throw his case out?

A. I am not sure we discussed at what stage he thought he would be successful in either getting the case dismissed or having being found not guilty. I don't think we got into that level of detailed discussion.

Q. But there's a difference, right, in terms of your success on the law and your success on a legal argument in front of a jury. They are two different things?

A. Correct.

Q. And you don't know what he was talking about?

A. During the second -- the third interview that I had with him, I don't recall if the case being dismissed was something he discussed in detail. I know that the name change papers was something that he delivered after that. So, I don't remember the exact date of that actually being done, like the name change being done. He thought that would have some benefit and merit.

What he did discuss was that if he were allowed to present his arguments the way he wants to present them, he would not be found guilty of what he was charged with.

Q. And based on his determination to proceed with sovereign citizen beliefs, you're finding that he is not competent to stand trial because he does not understand the implications

of the case?
A. Well, he does understand the implications. He's not able to consider other possible avenues that might actually be helpful in his defense. He's not willing to consult with an attorney who can --
Q. That's not the standard.
A. Okay. Well, are we talking about individually, going pro se?
Q. Well, we talked about going pro se, but it's not a qualitative analysis. It's not whether he will -- he can meet with an attorney and advocate for something that's going to work. It's not about the quality of his argument. It's just about whether or not he understands the proceeding and whether he can assist in his defense by very specific things. Can he speak with his attorney, can he have -- can he comport to the proper behavior in front of this Court. And I don't -- and your answer to that is what?
A. I think it depends. I think that's varied. His ability to communicate with his attorney has been variable over the last year.
Q. But you are being asked to decide and render an opinion to a reasonable degree of medical certainty whether this defendant is competent to stand trial --
A. Right.
Q. -- in front of this Court.

A. Right.
Q. That's what you are being asked to do first and foremost. And it's not about whether or not he's -- it's a good idea for him to represent himself. That's not the issue. The issue is whether he understands what the charges are against him?
MR. COMERFORD: We object to Ms. Kresse telling the witness what the issue is, what the standard is. I think it's -- I understand that it's tough with an expert witness because we don't want to go on and on with questioning, but this seems like just argument by the government.
THE COURT: I agree with that.
BY MS. KRESSE:
Q. Is it your opinion that Charles Weber during the trial, assuming he has counsel, will be unable to understand what the role of Judge Arcara is in terms of presiding over the trial?
A. No. I think that he would understand that.
Q. Is it your opinion that Mr. Weber will be unable to understand what the role of the government as a prosecutor is in terms of presenting the evidence through testimony of witnesses?
A. No, he would understand that.
Q. And he would understand that there would be exhibits that will be shown to witnesses, correct?

A. Yes.
Q. And he understands that his attorney, assuming he's represented, would then have the opportunity to cross-examine those witnesses and to impeach credibility. He understands that, correct?
A. Yes.
Q. He understands what the role of a defense attorney in federal court is, doesn't he?
A. I believe he does.
Q. So, he understands that Mr. Comerford's role is to be his attorney and to represent his best interests within the parameters of the law?
A. Correct, but there's a disagreement as to what that should be, what those interests are.
Q. And Mr. Weber understands that Mr. Comerford is better versed on what the applicable law is as this Court is going to follow, he understands that?
A. I don't know, because at some point, he made argument that he felt that he had done more research and had more information and was in a better position to present the arguments that need to be presented.
Q. What I am referring to actually is the -- it's not so much the type of the arguments, but the strategy presented, that Brian Comerford, as his legal representative, would have a better ability to have a strategy going forward within the

confines of a federal proceeding?

A. I am not sure he believes that; that Mr. Comerford would be better than he would be.

Q. I direct you to Dr. Antonius' report, which is Government Exhibit 1. I just need to find the right -- bear with me for a moment, please. Oh, okay. Page 13 of Government Exhibit 1, the last full paragraph on that page.

A. Okay.

Q. Okay. Now, this was Dr. Antonius who interviewed and evaluated Mr. Weber on four occasions between May 2017 and July 2017 and I am just referring to the first page in terms of the date of examination.

A. Okay.

Q. So, after those four occasions on which Dr. Antonius evaluated the defendant, he stated that -- okay. He addressed the competency issue and he talks about -- do you see the sentence that begins "With regard to his ability to consult with counsel"?

A. Yes. Yes.

Q. Okay. And at that time, he said to Dr. Antonius that he had talked about having considered representing himself, however, he explained that he is hoping that he will do better with an assigned attorney who better understands the legal system. Do you see that?

A. Yes.

Q. So, that's what Dr. Weber reported -- and let's just go by the last date -- June 19 of 2017.
A. Okay.
Q. You interviewed him and re-evaluated him two months later?
A. Right.
Q. And two months later, he no longer had an understanding that an assigned attorney has a better understanding of the legal system?
A. I am not sure what is referred to by assigned attorney.
Q. That's Mr. Comerford.
A. Okay. He does not deny that Mr. Comerford has an understanding of the legal system. Dr. Weber just cannot see himself using that method for what he wants to do to present evidence in this case.
Q. As an example of Dr. Weber's trust in Mr. Comerford, Dr. Antonius notes that Dr. Antonius [sic] went along with the health evaluation, the mental health evaluation, even though that he didn't believe it was necessary, correct?
A. That's what it says.
Q. And does that not indicate -- in addition to being evaluated by Dr. Antonius, he was evaluated by you on two separate occasions. I mean, I am not talking about individual occasions, but two separate periods of time?
A. Correct.

Q. Right.
A. Yes.
Q. And does Mr. Weber believe that he's not competent to stand trial?
A. No. He does not believe that he is not competent to stand trial.
Q. Does Mr. Weber believe that he has a delusional disorder of any type?
A. No.
Q. Does Mr. Weber believe he has a cognitive disorder of any type?
A. No.
Q. Does Mr. Weber believe that he is competent to represent himself?
A. Yes.
Q. Okay. And yet, he allowed himself to succumb to interviews by multiple mental health professionals as well as subjected himself to multiple neuropsychological testing, correct?
A. Yes.
Q. And that was at the advice of his attorney?
A. Yes.
Q. And you talk in -- now, I am going back to your second report, Government Exhibit 3. The second part of your finding on page 1 is you say, "to assist properly in his

defense." Do you see that?
A. Yes.
Q. But that's not the standard, is it?
A. The "properly"?
Q. Correct.
A. Right.
Q. Okay. So, "the properly" is something that you added because you think that's relevant?
A. I do think that's relevant.
Q. But that's not the standard under the law?
A. Right.
Q. Okay. There is no requirement for competency purposes that Mr. Weber's legal arguments make sense to anybody but himself.
MR. COMERFORD: Objection, Judge. It's calling for a legal conclusion, I think.
MS. KRESSE: I don't think it is.
THE COURT: Rephrase your question, Ms. Kresse.
BY MS. KRESSE:
Q. Is there any requirement for purposes of assessing somebody's competence that the argument that person wants to make makes sense to other people?
A. Well, an argument could be made that it could be self-defeating to have something that does not make sense to other people and that if someone is not able to properly articulate

a defense that other people can understand, they're not going to benefit from that. So, it could be one aspect of competency, especially if someone is going pro se and it is up to them to draft that argument or that point.

Q. In proceeding to trial, strategical decisions have to be made by a defense attorney in terms of what defenses to present and what not to present, correct?

A. Correct.

Q. And those are matters of strategy. Those aren't matters of competence?

A. Okay. Yes, I would agree.

Q. And so as a matter of strategy, if Mr. Weber wants to make arguments that another person would not think is legally valid or legally good, that does not render him incompetent?

A. Well, I guess the answer is still it depends. It depends if he's ignoring other things that he should be using to make those arguments rather than what he shouldn't use. And I think that is where he is going to struggle, he's going to struggle with being able to shift and consider other strategies and other information other than what he has in mind going forward right now.

Q. Right. And that assumes that he is found competent to represent himself?

A. I think that if he is found competent to work with an attorney, the minute his attorney does not do what he wants

him to do, there's going to be friction and there's going to be another attempt to try to go on his own.

Q. Respectfully, but that's speculation on your part, although that happened?

A. That has happened over the last year. This is in part why this has taken so long, because he has been ambivalent about whether he wants to work with his attorney or not. He's been variably cooperative with his attorney at different points in time, so it's gone back and forth. And I think as soon as he hits a roadblock or he feels that something critical is not being presented the way he wants it to be presented, he's going to want to bail again from working with counsel.

Q. And he may -- at that point, he may decide that he again he may raise the issue of wanting to be represented -- or to want to represent himself, but representing himself is not competence to stand trial.

You talk about that he -- you give the standard on page 12 and 13. You give the standard about competence to stand trial, but your whole analysis that precedes that, beginning at page 11 and continuing through page 12, talks completely about self-representation and about whether Mr. Weber because of his beliefs is able to represent himself.

MR. COMERFORD: Objection, Judge. There's no

questions there. It's just argument.

THE COURT: Is that a question, Ms. Kresse?

MS. KRESSE: I'll rephrase it, Judge.

BY MS. KRESSE:

Q. Is there anything in your second report, Government Exhibit 3, beginning with the "Competency Opinion" heading on page 11 and continuing through the conclusion that Dr. Weber is not competent to stand trial that supports that particular finding on your part?

A. I think there are several things that support that opinion that he is not able to -- that it's my opinion he's not competent to stand trial.

Q. Well, let me direct your attention to page 11. The first paragraph we went through under "Competency Opinion" and you are talking about how when you first evaluated him, he had all the indicia of being able to stand trial, correct?

A. Well, he had some. Again, I am not disputing the factual understanding of the charges and understanding the different roles of individuals, I mean, that certainly was okay.

Q. Yes, but --

A. But as far as putting forth --

MR. COMERFORD: Objection. Can she finish her answer, please?

THE WITNESS: The assisting in his defense has always been the problem. He vacillated as to what information he

thinks is critical for his attorney to use and what his strategy is.

Q. Well, first of all, let's go back to the first sentence. You say that he demonstrated a rational and factual understanding of the charges. Now you are saying it wasn't rational, it was just factual, but this is what's in your report?

A. During the first evaluation, he did; he demonstrated a rational and factual understanding of the charges.

Q. Okay. So, we're clear on that. He did have --

A. Right.

Q. And that's what I was asking you. I was asking you about when you first met with him, he demonstrated the indicia of a person who was competent to stand trial in terms of a rational and factual understanding of the charges?

A. Correct.

Q. Okay. And you also found that in terms of those other relevant factors, the role of the Court, the role of the parties, the consequences of the crime, that he understood those at that time?

A. Yes.

Q. Okay. The next paragraph addresses assisting in his defense and your issue -- isn't it true that your issue there becomes his desire at this point to proceed pro se?

A. Yes, that is one of the issues. And the other issue is

that he is not going to allow introduction of information that he doesn't think is going to be helpful but might actually be helpful.

Q. You believe it would be helpful?

A. Well, his attorney also might think it would be helpful.

Q. And then beginning after that paragraph -- and so now we're in the paragraph, "During this follow up evaluation". You iterate all of the Mr. Weber's arguments for why he wants to represent himself?

A. Correct.

Q. So, now we're not -- now, we have moved off of competence to stand trial. Now you are talking about competence to represent himself.

A. Because that was where he was during the last interview. That was his decision at that point.

Q. And then, if we go to page 12, the paragraph that begins, "Given that there are differences in the skill set needed to proceed pro se compared to merely assisting in one's defense led by an attorney, it is useful to focus on certain skills that are not typically required of defendants who are working with attorneys." Do you see that?

A. Yes.

Q. Okay. So, here, you're not addressing the standard of competence to stand trial. You are addressing the standard of whether he's competent to represent himself?

A. Well, yes. I thought that was an important carveout, because he's been going back and forth as to whether he's going to work with counsel or not.
Q. But you understand that they are not the same thing; that you were asked to find whether he was competent to stand trial and his desire to represent himself or not is not an issue for purposes of whether he's competent to stand trial?
A. If there's a rational reason why he wants to represent himself, it may not be, but it could be very self-defeating for a defendant to reject the assistance of counsel and that could impact on somebody's ability to effectively assist in their defense.
Q. When you spoke at the -- on the panel in October of 2017, do you recall that you referenced a particular article that you had found regarding competency of self-representation by defendants?
A. Yes. I believe that during the question-and-answer session there was a question that I answered and I give a reference, yes.
Q. Okay.
MS. KRESSE: And if I could approach, Judge?
THE COURT: Yes.
BY MS. KRESSE:
Q. Showing you what's been marked as Government Exhibit 6. During the break, you had an opportunity to look through this

for a moment or two, correct?

A. Yes.

Q. Okay. And do you recognize that article?

A. Yes.

Q. Is that the article that you referenced in your comments during the panel discussion in October 2017?

A. Yes.

Q. Is this an article that you are familiar with?

A. Yes.

MS. KRESSE: Your Honor, the government offers Government Exhibit 6 into evidence.

MR. COMERFORD: No objection.

THE COURT: All right. It will be received.

(Government Exhibit 6 was received in evidence.)

MS. KRESSE: Thank you, Judge.

THE COURT: Do I have a copy of it?

MS. KRESSE: You do.

THE COURT: Here it is. I found it. Okay. I have it.

MS. KRESSE: Okay.

BY MS. KRESSE:

Q. Dr. Cervantes, looking at Government Exhibit 6, can you read the title of that article?

A. "A Proposed Model For Assessing Defendant Competency to

Self-Represent."
Q. And that was an article found in what journal?
A. "The Journal of the American Academy of Psychiatry and the Law."
Q. And the year of that article?
A. 2016.
Q. And you indicated that you have read this article?
A. I have.
Q. Okay. Is it fair to say that the article deals with competence of defendants to represent themselves generally, correct?
A. Well, it starts without that general concept, yes.
Q. And the question I have is, is this an article that specific, for example, to the competency of sovereign citizens to represent themselves?
A. No.
Q. Okay. So, this is an article about competent to represent yourself across the board regardless of some defendant's ideological beliefs, correct?
A. Correct.
Q. And is it fair to say that the article sets forth sort of a list of questions that are relevant for determining the issue of whether somebody is competent to stand trial?
A. Well, it does not set forth specific questions, but it goes into assessing the differences of what a defendant might

have to do if they are representing them self as opposed to passively working with an attorney.

Q. And let me direct you to page 432 of this article.

A. Yes.

Q. And do you see the heading A, "Five-Five Part Mental Competency Model"?

A. Yes.

Q. And then if you actually look directly to the right-hand column, do you see "the questions are"?

A. Yes.

Q. And if you want to take a moment to look at those questions, because I don't want to ask you a question by taking it out of context.

THE COURT: Page 432?

MS. KRESSE: 432, Your Honor. There's a heading "Five-Part Mental Competency Model."

THE COURT: Okay.

MS. KRESSE: And then if you look directly to the right, there's a paragraph that begins, "The questions are".

THE COURT: I've got it.

THE WITNESS: Yes.

BY MS. KRESSE:

Q. Dr. Cervantes?

A. Yes.

Q. The question -- so, this paragraph lists a number of

questions that are relevant to determining whether a particular defendant is competent to represent him or herself, correct?

A. Yes.

Q. If you could go through what those questions are?

A. Can the defendant engage in goal-oriented behaviors? Does the defendant have sufficient oral and written communication skills? Does the defendant have the ability to conform his social behavior to accepted norms? Is the defendant able to control his emotions in an adversarial arena? Is the defendant able to perform the basic cognitive functions needed to construct a legally logical defense and to make arguments in support of his position?

Q. Did you consider these questions when you were analyzing whether or not Dr. Weber was competent to represent himself?

A. I did.

Q. And in terms of the defendant's ability to engage in goal-oriented behavior, what was your opinion regarding that?

A. Well, his goals are different than what I think the actual goals are supposed to be for this case, so he could engage in goal-oriented behavior as far as what he thinks the goal is, but it's not goal-oriented as far as furthering the resolution of the case, so he would struggle with that.

Q. Is goal-oriented behavior in the context of the trial acquittal?

A. Well, it could be a dismissal, perhaps starting with that. If that didn't work and it went forward, then it could be an acquittal or a hung jury. He's talked about making arguments to convince the jury that he's correct and knowing that he's going to be successful with that, but he has not talked about how he would handle things if he were prevented from doing thing his way, which I think would be very likely to happen if this case were to move forward under the current circumstances.

So, I think he's going to focus on irrelevant information that is not going to be pertinent to the case. And while that's may be goal-directed for him, it's not going to be goal directed for anybody else in the courtroom. He's going to get distracted. He's going to go on off on tangents. He's going to present information that no one else is going to think is relevant except him.

Q. And all of the things you just talked about, you think are part of the analysis of whether he's able to engage in goal-oriented behavior?

A. Yes.

Q. But for the purpose of the trial, the goal is to -- as you said, to dismiss the case or to argue and obtain an acquittal. The defendant believes that he has the tools, does he not, by which he can actually achieve those goals. He believes he does? That's the question?

A. He believes he does.
Q. Okay. Does the defendant have sufficient oral and written communication skills? I mean, here, you -- when you met with Dr. Weber, he was able to communication with you, correct?
A. Yes.
Q. He was able to convey his thoughts and answer your questions, correct?
A. Yes.
Q. He was able to -- in terms of written communication, he has filed things in this case he's written himself?
A. Yes.
Q. And in fact, he, unfortunately for you, delivered one to your home, something that he had written and put into writing relative to this case, correct?
A. Well, I think it was the name change, so it is not federally filed, but it was the state court documents, yes.
Q. Thank you for correcting that. The next question, does the defendant have the ability to conform his social behavior to accepted normas. I mean, there was no indication Dr. Weber has an inability to conform to accepted norms in the context of this proceeding?
A. Not so far.
Q. Is the defendant able to control his emotions in an adversarial arena? That's the next question. Has there been

any indication that this defendant is unable to control his emotions in an adversarial arena?
A. Well, not so far, but this is not the most stressful part of what is to come.
Q. Both competency to stand trial and competency to represent yourself are fluid. They change, correct?
A. Correct. So, so far, I would say that no, there's been no indication that he can't control his emotional state.
Q. And then, the least question set forth in this article, is the defendant able to perform the basic cognitive functions needed to construct a legally logical defense and to make arguments in support of his position, correct?
A. Correct.
Q. And is it true that what you would take issue with in this last question is the phrase "legally logical defense"?
A. Absolutely. I think he would fail miserably on that particular question.
Q. But in order to understand the phrase "legally logical defense", do we not have to go back to the fact that this is an idealogical belief that this defendant has agreed to and bought into and so, in his mind, it is a logical defense?
A. In his mind, it's a logical defense, but also, by proceeding that route makes him completely disregard other arguments that might be helpful or other strategies, or contemplate the possibility of plea bargaining, because for

him, the blinders are on, you know? He has an idea of what he wants to do. He can't go to the left. He can't go to the right. There is no departure from what his plan is, so he's not going to be able to use any other information except what he thinks is relevant and that's going to be self-detrimental. It's going to be self-defeating.

Q. But there's no requirement that somebody's strategy at trial not be self-defeating, is there?

A. Well, I think that requires some examination as to if somebody is going down that path as to why they are doing that.

Q. Do you recall during the panel that you participated in in October 2017 that one of the presenters talked about a sovereign citizen that he evaluated where the individual was pulled over for a speeding ticket and ended up -- because of his sovereign citizen beliefs that the plaintiff had no authority to speak to him, ended up assaulting a police officer? Do you remember that example?

A. Yes.

Q. And as a result of this individual's sovereign citizen beliefs, he ended up in jail for seven years as opposed to like, a $40 ticket, is how it was described. Do you recall that?

A. Yes.

Q. And so, it is not uncommon for adherence to sovereign

citizen belief when they intersect with the law to end up having adverse consequences, is it?
A. Well, I think you have to look at how you get to that point, because here is somebody who clearly demonstrated lack of ability to conform his behavior and restraint and was disinhibited to some extent and was not able to complete other options to resolve his case or to de-escalate the situation so it didn't get to the point that it did. So, yes. I mean, it can become something that becomes very radical, but I think it does impair somebody's ability to effectively assist in their defense if it gets to that point.
Q. Well, because it turns out they're their own worst enemy, right?
A. I guess you could say that.
Q. I mean, in a lay person's term, they become their own worst enemy?
A. I guess.
THE COURT: Ms. Kresse, how much longer are you going to be?
MS. KRESSE: I am finishing up, Your Honor. If I could just have a moment to look at my notes?
BY MS. KRESSE:
Q. There's one area I wanted to ask you about. Doctor, I believe you said in your direct examination that Dr. Heffler had been able to get in touch with Dr. Weber's wife?

A. Yes.
Q. Is it accurate that what Dr. Weber's wife reported at that time was that she believed that Dr. Weber's somatic complaints related to anxiety relative to his legal troubles?
A. That was her opinion of at least some of the somatic complaints at that time, is what she told Dr. Heffler, yes.
Q. And so, I cannot ask you about it in isolation, I am talking about Government Exhibit 2, which is your first report, page 9 and specifically the second paragraph. Do you see that?
A. Yes.
Q. Okay. And she felt his health concerns were actually -- and I am reading, if you see, if the middle of the paragraph.
A. Yes.
Q. "She felt that his health concerns were actually anxiety-related because of his arrest for the instant offense", correct?
A. Yes.
Q. Okay. And one of the things that you were concerned about -- and correct me if I am wrong -- in terms of making an evaluation of Dr. Weber is the lack of information from, I believe, it is collateral sources. Is that the right term?
A. Yes.
Q. And was that a concern of yours?
A. Well, it was because we had more questions as the case

progressed and the only time that we were able to make contact with Ms. Weber was that one telephone call.

Q. Right. And it's because the people that have known the person in question can provide meaningful insight into things that are relevant to your diagnosis, correct?

A. Correct.

Q. And so in this case, the defendant's now ex-wife opined in her opinion, having lived with him, that his health concerns were actually anxiety-related because of his arrest in the instant case, correct?

A. That's what she told Dr. Heffler, yes.

MS. KRESSE: Nothing further, Judge.

REDIRECT EXAMINATION

BY MR. COMERFORD:

Q. Dr. Cervantes, concerning Dr. Weber's status with the IRS prior to 2006, did I provide you with any documents about that?

A. No.

Q. Did I provide you any information about that other than the indictment or what Mr. Weber told us?

A. No.

Q. So, I know the government asked you a few questions about this, but, say, if you were to learn that in 2003 he was due

a refund and elected not to receive it and then, so, basically, he told the IRS he didn't want it and to use it toward prior taxes, would you view that as the sort of crisis that you were talking about earlier today?

A. No.

Q. Are you in a position to even give an opinion on whether he would have been in a crisis or not pre-2006?

A. No.

Q. You did need more information to do that?

A. Absolutely.

Q. And does any of that change your ultimate opinion as far as his diagnosis?

A. No.

Q. And as far as his -- your opinion on his competency to proceed to trial?

A. No.

Q. Or your opinion on his competency to represent himself?

A. No.

Q. In Government Exhibit 3, which is your second evaluation, the last 2 pages, pages 12 and 13?

A. Yes.

Q. The government pointed out that you phrase it as, "He's mentally incompetent to the extent that he's unable to understand the nature and the consequences of the proceedings against him" -- I guess this is the important part I'm

getting to here, "and to assist properly in his defense". And you testified that you had included the word "properly" in there?

A. Yes.

Q. If you took that word out, would that change your conclusions?

A. No.

Q. Would you still be of the opinion, yes or no, that he's able to assist in his defense?

A. I don't think he's able to assist in his defense at this point.

Q. Thank you. In terms of the panel discussion in Colorado, which is the -- we talked a little bit -- that's contained in Defendant's Exhibit 4, you testified that you prepared -- you don't prepare the report until after -- rephrase that. The government asked about that you hadn't prepared that report until after you had the benefit of that discussion, is that correct?

A. Correct.

Q. And I guess what, if anything, did you take away from that panel based on your discussion of Dr. Weber's case?

A. So, first of all, none of the information that the other experts presented was news that I didn't already know was going to be presented. Again, these things were discussed months in advance. The presentation was done weeks in

advance of that. I think what is not necessarily obvious from the audio is that the audience of forensic psychiatrists that went to this particular panel, when they were discussing this particular case -- Dr. Weber, with the facts -- I asked the question at one point how many people believe that this was more than just another sovereign citizen based on all the other information that I discussed -- such as the medical stuff and the premorbid functioning, his occupation, all of that -- and virtually every forensic psychiatrist in the room raised their hand, thinking that this was something more than sovereign citizen beliefs.

Q. And in terms of your opinion on -- sorry. Let me rephrase that. To your knowledge, when Dr. Antonius evaluated Dr. Weber, was Dr. Weber intent on going pro se or did he have my office representing him at that time, if you know?

A. I believe that your office was representing him at that time, but I think there was some ambivalence about where he was going.

Q. And when you evaluated him again in your second report, what was his position on my office representing him?

A. His position at that point was that he wanted to represent himself.

Q. So, that had been a change from when Dr. Antonius evaluated him to when you spoke to him for the second

evaluation?

A. Yes. He seemed much more definitive on that when I valued him most recently.

MR. COMERFORD: I have no further questions, Judge. Thank you. Thank you, Doctor.

THE COURT: All right. Were any other witnesses, Mr. Comerford?

MR. COMERFORD: Yes, Judge. Dr. Weber had indicated that he would like to testify. Under the statute, he does have that right. He and I have spoken at some length about it and he does intend on testifying. I would still represent him, but he's provided me with some questions that he wants me to ask him. I think they may be relevant to the Court's assessment of whether or not he's able to aid in his defense, understand the charges against him. It's about eight questions, but he would like to testify for the competency hearing.

THE COURT: I am thinking maybe 9:30 tomorrow morning.

MR. COMERFORD: I can do that, Judge.

THE COURT: Let's do it 9:30 tomorrow morning. I think we have heard enough today.

MR. COMERFORD: Thank you, Judge. I don't know that this is going to matter. I just want to put on the record. In terms of the pre-2006 tax return, I spoke briefly with

Ms. Kresse about that. I didn't let Dr. Cervantes know about anything with him filing or not filing in 2004, 2005 because I personally didn't know that. That may be contained in some exhibits that were provided to Dr. Weber when he was pro se, but it's unclear to me at this point. If it's an issue five years from now, I just want to make the record that that's why she didn't know. I didn't tell her.

THE COURT: All right.

MR. COMERFORD: I didn't know it from the exhibits either. So, thank you.

THE COURT: Okay. Thank you very much.

MR. COMERFORD: Thank you, Judge.

MS. KRESSE: Thank you.

(Proceedings concluded at 3:50 p.m.)

* * * * * * *

I certify that the foregoing is a correct transcription of the proceedings recorded by me in this matter.

s/ Megan E. Pelka, RPR

Court Reporter,